

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

IN RE TERRORIST ATTACKS ON SEPTEMBER 11, 2001

Case No. 03-md-1570 (GBD)(SN)

FIONA HAVLISH, individually and on behalf of the
ESTATE OF DONALD G. HAVLISH, JR., Deceased, *et al.*,

Case No. 03-cv-9848 (GBD)(SN)

Creditors,

v.

THE TALIBAN, *et al.*,

Debtors,

FEDERAL RESERVE BANK OF NEW YORK,

Garnishee.

EXPERT DECLARATION OF ALEX B. ZERDEN

I. Introduction and Qualifications

1. My name is Alex B. Zerden. I am submitting this declaration in my capacity as an expert consultant to the Plaintiffs in *Havlish v. the Taliban*, Case No. 03-cv-09848 (S.D.N.Y.). I also understand this declaration is being filed, and relied upon, by the plaintiffs in *John Does 1 Through 7, v. The Taliban, Al-Qaeda, and The Haqqani Network*, Case No. 20-mc-00740 (S.D.N.Y.). The facts and opinions stated in this report are based on my research, expertise, and personal experiences and observations, including my tenure as the U.S. Treasury Department's top representative stationed in Afghanistan from 2018–2019. If called as an expert witness in this proceeding, I could testify competently to all that follows.

2. I am an attorney, former policymaker, and former diplomat with over fifteen years of experience in the executive branch, Congress, and the private sector. I am currently the

founder and principal of Capitol Peak Strategies LLC, which advises organizations on regulatory, legal, public policy, and strategy issues. I am also a senior advisor to WestExec Advisors, a strategic advisory firm, an adjunct senior fellow at the bipartisan Center for a New American Security (CNAS), and a term member of the Council on Foreign Relations (CFR).

3. I regularly provide expert analysis on Afghanistan, economic sanctions, and anti-money laundering and countering the financing of terrorism (AML/CFT) matters. My research, writings, and policy recommendations on Afghanistan have been published through the Atlantic Council, the Brookings Institution Lawfare Institute, CNAS, the Center for Strategic and International Studies (CSIS), and the New York University School of Law's Reiss Center on Law and Security through the Just Security platform. I participate in various public and nonpublic fora to provide expert analysis on Afghanistan to the executive branch, Congress, non-governmental organizations, and international organizations.

4. From July 2018 to November 2019, I served as the U.S. Treasury Department's Financial Attaché in Kabul, Afghanistan. In that capacity I supervised all the Treasury Department's in-country operations. Stationed at the U.S. embassy in Kabul, I advised senior officials across the U.S. Government, including the U.S. Ambassador to Afghanistan, military generals, Members of Congress, and Treasury Department leadership on Afghan economic and illicit finance matters such as AML/CFT and economic sanctions. In this capacity, I served as the Treasury Department representative on the embassy Country Team.¹ My mandate also included supporting the former government of Afghanistan to promote economic stability and combat illicit finance, including terrorism financing involving designated entities such as the Taliban, the

¹ The Country Team is “[a]n interagency group made up of the heads of each State Department section in the embassy and the heads of the other U.S. Government agencies represented at post.” U.S. Dep’t of State, Nat’l Museum Am. Diplomacy: *Country team*, (June 2019), <https://diplomacy.state.gov/glossary/country-team-2/>.

Haqqani Network, Al Qaeda, the Islamic State Khorasan Province (ISIS-K), and the Iranian Islamic Revolutionary Guards Corps-Quds Force (IRGC-QF). While in Afghanistan, I participated in providing evidentiary support for the October 23, 2018 U.S. Treasury Department counter-terrorism sanctions designation of several Taliban-associated individuals.²

5. As the U.S. Treasury Department Financial Attaché to Afghanistan, I regularly interfaced directly with senior officials of the former government of Afghanistan, including leadership, senior officials, and staff of Da Afghanistan Bank (“DAB”), which is the central bank of Afghanistan, and with DAB’s Financial Intelligence Unit, the Financial Transactions and Reports Analysis Center of Afghanistan (FinTRACA).³ I also regularly interfaced with other banking and financial sector leaders in Afghanistan. I briefed former President Ashraf Ghani and former National Security Advisor Hamdullah Mohib at the Afghan Presidential Palace on illicit finance matters.

6. I met with DAB officials on numerous occasions in both Afghanistan and abroad. I communicated with DAB officials on a nearly daily basis while working during my tour in Afghanistan. My work with DAB included, among other things, collaborating with FinTRACA to combat terrorism financing threats, especially those presented by the Taliban. I trained dozens of DAB and FinTRACA employees, along with dozens of other Afghan government and private sector officials, on sanctions and illicit finance matters.

7. In addition, I visited DAB facilities on at least seven occasions between 2018 and 2019.

² See U.S. Treas. Dep’t Press Release, *Treasury and the Terrorist Financing Targeting Center Partners Sanction Taliban Facilitators and their Iranian Supporters* (Oct. 23, 2018), <https://home.treasury.gov/news/press-releases/sm532>.

³ As explained more fully below, FinTRACA was the Afghan counterpart to the U.S. Treasury Department’s Financial Crimes Enforcement Network (FinCEN) and was responsible for investigating crimes involving the Afghan financial system, including money laundering and terror financing.

8. As a result of my work with DAB, I am personally familiar with DAB’s history, operations, and structure.

9. In recognition of my work with DAB, I received a letter of commendation dated October 28, 2020, from the then-DAB Acting Governor and First Deputy Governor for “cooperating with Da Afghanistan Bank in areas concerning AML/CFT, interagency cooperation, capacity building, and the supervisory framework of the central bank.” Based on information communicated to me by DAB, I understand that I was the first non-Afghan official to receive such a commendation from DAB.

10. In recognition of my service in Afghanistan, I received a letter from the then-U.S. Ambassador to Afghanistan, dated October 13, 2019, which stated, in part, “[Alex Zerden] is a committed public servant who, through his service in harm’s way, has strengthened our ability to safeguard the nation and our fellow Americans.”

11. In addition to my position as Financial Attaché in Kabul between 2018 and 2019, my public service has included working as Legal Counsel to Majority Whip James Clyburn on the House of Representatives Select Subcommittee on the Coronavirus Crisis (2020-2021); a Policy Advisor in the Treasury Department’s Office of Terrorism and Financial Intelligence (2019-2020); a Senior Enforcement Officer in the Treasury Department’s Financial Crimes Enforcement Network (2016-2018);⁴ and a Treasury Department official detailed to the White House National Economic Council (2016-2017).

12. I received a JD, *summa cum laude*, from the American University Washington College of Law, in Washington, DC, and a BA in Middle Eastern Studies and Political Science,

⁴ The Treasury Department’s Financial Crimes Enforcement Network (FinCEN) is the U.S. government’s Financial Intelligence Unit and was a counterpart to FinTRACA while I served as the Financial Attaché in Afghanistan.

cum laude, from Tufts University in Medford, MA. I am admitted to practice law in the State of New York.

13. I have been asked to provide an expert opinion regarding facts relevant to the determination as to whether Da Afghanistan Bank (DAB) is an “agency or instrumentality” of the Taliban within the meaning of Section 201(a) of the Terrorism Risk Insurance Act of 2002 (TRIA). I understand that in 2016, the United States Court of Appeals for the Second Circuit established criteria for determining whether an entity is an agency or instrumentality of a terrorist party. *See Kirschenbaum v. 650 Fifth Ave. & Related Properties*, 830 F.3d 107 (2d Cir. 2016), *abrogated on other grounds by Rubin v. Islamic Republic of Iran*, 138 S. Ct. 816 (2018). According to the Second Circuit’s *Kirschenbaum* test, DAB will qualify as an agency or instrumentality of the Taliban if any of the following three conditions are satisfied: DAB “(1) was a means through which a material function of the [Taliban] is accomplished, [DAB] (2) provided material services to, on behalf of, or in support of the [Taliban], or [DAB] (3) was owned, controlled, or directed by the [Taliban].” *Id.* At 135.

14. Based on my experience and in my expert opinion, the facts readily satisfy each prong of the *Kirschenbaum* test. The Taliban has installed new leaders at DAB (including terrorists designated by the United States, United Nations, United Kingdom, and European Union) whose only qualifications are their loyalty and substantial material support to the terrorist organization, assumed control over the bank’s existing employees, and begun to shape the bank in accordance with its goals and practices—including by issuing directives from the Taliban’s Council of Ministers that DAB must follow and having the Taliban Deputy Prime Minister, Mawlawi Abdul Salam Hanafi, chair meetings at DAB headquarters to provide instructions about economic policy. The Taliban has also benefited directly from bringing DAB under its control

by, among other things, gaining access to sensitive financial intelligence information, nonpublic supervisory information, and other economic data. The Taliban has been using this information and its control over Afghanistan's central bank to advance its agenda, consolidate its control over Afghan territory, enhance revenue generation through its involvement in illicit narcotics production and trafficking operations, and allow the under-regulated *hawala* (money services business) sector to thrive, thereby facilitating the illicit financing of terrorism, money laundering, and the narcotics trade.

15. I begin by providing background information regarding the Taliban and how it came to reassert control over Afghanistan in the summer of 2021. I will then describe the effect that the Taliban's takeover has had on the leadership and operations of DAB. These changes involving DAB all support my ultimate conclusion that, among other things, the Taliban directs and controls DAB and that DAB is a now an agency or instrumentality of the Taliban.

II. Background on Da Afghanistan Bank and the Taliban

A. DAB is the Central Bank of Afghanistan

16. DAB is the central bank of Afghanistan and has been since its formation in 1939.⁵

B. The Taliban is a Terrorist Party

17. The Taliban has been an officially designated terrorist entity, sanctioned by the United States and other jurisdictions, since at least 1999.⁶ In July 2002, the Taliban was designated a Specially Designated Global Terrorist (SDGT) because of its role in the 9/11 terrorist attacks, its long history of supporting terrorism against the United States, and its continuing threat to the United States and its citizens.⁷ The Taliban remains an SDGT today.

⁵ Da Afghanistan Bank, *About Us: History*, <https://dab.gov.af/about-us> (last accessed Mar. 19, 2022).

⁶ Exec. Order No. 13129, 64 Fed. Reg. 36759 (July 7, 1999), <https://www.govinfo.gov/content/pkg/FR-1999-07-07/pdf/99-17444.pdf>.

⁷ Exec. Order 13224, 66 Fed. Reg. 49079 (Sept. 25, 2001).

1. The Taliban Was Designated a Terrorist Party in 1999

18. The Taliban's roots trace back to the Afghan resistance to the Soviet Union's occupation of Afghanistan, where almost all its initial leadership fought against Soviet soldiers. Established as an identifiable group in approximately 1994, Taliban forces fought in the civil war that arose after Soviet forces withdrew from Afghanistan. The Taliban eventually conquered large portions of Afghanistan, including Kabul, Afghanistan's capital. By 1996, the Taliban had taken control of not only large parts of Afghanistan but also many Afghan government agencies and instrumentalities. Consequently, much as it does today, the Taliban claimed to be the government of Afghanistan. And, as it is doing today, the United States did not then recognize the Taliban (or any other group) as the government of Afghanistan.

19. During this first period of Taliban control over Afghanistan, the Taliban controlled key institutions of the state of Afghanistan, including, significantly, DAB.

20. The Taliban used its control over Afghanistan to provide a base of operations, training bases, and safe haven for Osama bin Laden and Al Qaeda. Bin Laden and Al Qaeda used the territory provided by the Taliban to plan, train, finance, and direct the September 11, 2001 terrorist attacks in the United States. The Taliban and Al Qaeda were closely affiliated and, to this day, the Taliban has not condemned or disassociated itself from Al Qaeda.

21. For years prior to the 9/11 terrorist attacks, the Taliban had been providing a base of operations, material support, and a safe haven to Al Qaeda for terrorist attacks carried out against United States interests. For example, the Taliban was providing material support to Al

<https://www.govinfo.gov/content/pkg/CFR-2002-title3-vol1/pdf/CFR-2002-title3-vol1-eo13224.pdf>; Exec. Order No. 13268, 67 Fed. Reg. 44751 (July 3, 2002), <https://www.govinfo.gov/content/pkg/WCPD-2002-07-08/pdf/WCPD-2002-07-08-Pg1129.pdf>.

Qaeda when it planned, carried out, or facilitated terrorist attacks against, among other targets, the 1993 World Trade Center Bombing in New York; the 1995 car bombing in Riyadh, Saudi Arabia that targeted and killed U.S. military personnel; and the 2000 bombing of the USS Cole while at port in Aden, Yemen.

22. The Taliban’s participation in, and provision of material support for, Al Qaeda’s terrorist activities led President Clinton to sign Executive Order 13,129 on July 4, 1999, entitled “Blocking Property and Prohibiting Transactions with the Taliban.” In Executive Order 13,129, President Clinton found that “the actions and policies of the Taliban in Afghanistan, in allowing territory under its control to be used as a safe haven and base of operations for Usama bin Ladin and the Al Qaeda organization” constituted “an unusual and extraordinary threat to the national security and foreign policy of the United States.” In particular, President Clinton referenced Al Qaeda’s “acts of violence,” and its threats “to continue to commit acts of violence, against the United States and its nationals.”⁸

23. As a result, Executive Order 13,129 blocked “all property subject to U.S. jurisdiction in which there is any interest of the Taliban.” The Order also blocked the property and interests in property subject to U.S. jurisdiction of persons determined by the Secretary of the Treasury, in consultation with the Secretary of State and the Attorney General, “(1) to be owned or controlled by or to act for or on behalf of, the Taliban, or (2) to provide financial, material, or technological support for, or services in support of, any of the foregoing.”⁹

24. On October 15, 1999, the United Nations Security Council adopted Resolution 1267, which “[s]trongly condemn[ed] the continuing use of Afghan territory, especially areas

⁸ Exec. Order No. 13129, *supra* note 6.

⁹ *Id.*

controlled by the Taliban, for the sheltering and training of terrorists and planning of terrorist acts”; demanded “that the Taliban turn over Usama bin Laden without further delay to appropriate authorities in a country where he has been indicted,” and directed all UN member states to impose financial sanctions and travel restrictions on the Taliban.¹⁰

2. The Taliban Controlled DAB the Last Time It Controlled Afghanistan

25. On October 22, 1999, the United States added Da Afghanistan Bank to the list of sanctioned Afghan entities whose assets were blocked pursuant Executive Order 13,129. The United States sanctioned DAB even though it was the central bank of Afghanistan, even though the Taliban claimed to be the government of Afghanistan, and even though the Taliban, in its claimed capacity as the government of Afghanistan, asserted the right to control DAB and its assets.

26. On July 18, 2000, President Clinton reported to Congress that the Treasury Department’s Office of Foreign Assets Control (OFAC), in consultation with the Departments of State and Justice, had added DAB to the list of sanctioned Taliban affiliates because the United States had determined DAB was “controlled by the Taliban,” and that “the Taliban ha[d] an interest” in it.¹¹ The fact that the Taliban controlled DAB was sufficient to recognize it as a terrorist financing threat and to impose blocking sanctions against it, notwithstanding its role as the central bank of Afghanistan. President Clinton sent a similar report making similar findings to Congress on January 17, 2001.¹²

¹⁰ S.C. Res. 1267 (Oct. 15, 1999), available at <http://unscr.com/en/resolutions/doc/1267>.

¹¹ July 18, 2000, Message from the President of the United States Transmitting His Periodic Report on the National Emergency with Respect to the Taliban in Afghanistan, <https://www.govinfo.gov/content/pkg/CDOC-106hdoc268/pdf/CDOC-106hdoc268.pdf>.

¹² <https://www.govinfo.gov/content/pkg/CDOC-107hdoc16/html/CDOC-107hdoc16.htm>.

27. Today, as then, the Taliban is a terrorist party that controls Afghanistan and its government agencies and is not recognized as the legitimate government of Afghanistan. Today, years of progress have been sadly wiped away, as the Taliban reverts to controlling DAB now in the same manner as when it controlled Afghanistan and its government institutions between 1996 and 2001.

3. The Taliban Remained a Designated Terrorist Party After 9/11

28. On September 11, 2001, Al Qaeda terrorists hijacked passenger aircraft and flew them into the twin towers of the World Trade Center in New York, NY; the Pentagon in Washington, D.C.; and an open field in Somerset County, Pennsylvania, killing several thousand people and injuring many others. These attacks were made possible by the base of operations, training bases, and safe haven the Taliban provided to Al Qaeda and Osama bin Laden during the years preceding September 11, 2001. The Taliban continued to provide material support to Osama bin Laden and Al Qaeda after the 9/11 terrorist attacks.

29. On September 23, 2001, in response to the attacks, President Bush signed Executive Order 13,224,¹³ which “provides a means by which to disrupt the financial support network for terrorists and terrorist organizations by authorizing the U.S. Government to designate and block the assets of foreign individuals and entities that commit, or pose a significant risk of committing, acts of terrorism.”¹⁴ That order directs that “all property and interests in property” belonging to certain identified persons “that are in the United States or that hereafter come within the United States . . . are blocked,” and provided for a process by which the Secretary of State or the Secretary of the Treasury could designate additional entities that

¹³ Exec. Order 13224, *supra* note 7.

¹⁴ U.S. Dep’t of State, Bureau of Counterterrorism, Exec. Order 13224, <https://www.state.gov/executive-order-13224/> (last visited Mar. 19, 2022).

pose a threat of terrorism. Individuals or entities designated pursuant to E.O. 13,224 are identified as “Specially Designated Global Terrorists” (“SDGT”).¹⁵ The Executive Order was issued pursuant to the authorities granted the president by the International Emergency Economic Powers Act (50 U.S.C. § 1701 *et seq.*) (“IEEPA”), among others. Because the Taliban and DAB were still sanctioned under Executive Order 13,129, President Bush did not initially designate them as SDGTs in Executive Order 13,224.

30. In late 2001, a U.S.-led coalition ousted the Taliban from positions of power in the government of Afghanistan, and took control of Afghanistan’s capital, Kabul.

31. In July 2002, President Bush, acting pursuant to his authority under IEEPA, issued Executive Order 13,268. In Executive Order 13,268, President Bush found that Executive Order 13,129 was no longer applicable because the Taliban no longer controlled Afghanistan and could no longer provide Al Qaeda with “a safe haven and base of operations in Afghanistan.” Instead, President Bush found the Taliban continued to be involved in “grave acts of terrorism” and “threats of terrorism,” including “the continuing and immediate threat of further attacks on United States Nationals or the United States.” As a result, President Bush designated the Taliban, and its then-leader Mohammed Omar, as Specially Designated Global Terrorists (SDGTs) pursuant to Executive Order 13,224.¹⁶

32. Since being ousted from power in Afghanistan, the Taliban continued to plan, finance, and carry out terrorist attacks against “United States Nationals or the United States” in Afghanistan. In fact, the Taliban continued to carry out violent terrorist attacks against U.S. forces in Afghanistan and against the internationally-backed government of Afghanistan. Their

¹⁵ *Id.*

¹⁶ Exec. Order 13268, *supra* note 7.

terrorist attacks were “characterized by brutal indiscriminate violence, mainly inflicted by suicide bombings and IEDs.”¹⁷ For instance, in January 2016, a suicide bomber in a truck packed with explosives detonated outside of Darya Village, a protected hotel compound in Kabul, Afghanistan, ripping a deep crater in the ground, leaving a tangle of wreckage, and injuring United States Nationals. The Taliban took responsibility for the attack, claiming it was a “place of vulgarity and profanity” and that “foreign invaders must leave Afghanistan.”¹⁸

33. According to the Congressional Research Service, the United States “suffered over 22,000 military casualties (including about 2,400 fatalities) in Afghanistan, mostly at the hands of the robust and growing Taliban insurgency...”¹⁹ According to an unclassified assessment by the Office of the Director of National Intelligence’s (ODNI) National Counterterrorism Center (NCTC), “[t]he Afghan Taliban [were] responsible for most insurgent attacks in Afghanistan, which follow an established pattern of regular low-level ambush and hit-and-run attacks, coupled with periodic high-profile attacks.”²⁰

34. In 2011, the United Nations Security Council made substantive changes to its sanctions program against the Taliban and Al Qaeda under United Nations Security Council Resolution 1267 (1999), effectively bifurcating the sanctions into two distinct sanctions

¹⁷ Atal Ahmadzal, *Why the Taliban Still Love Suicide Bombing*, Foreign Policy (Dec. 17, 2021), <https://foreignpolicy.com/2021/12/07/taliban-suicide-bombing-parade-violence-afghanistan/>.

¹⁸ Sayed Hassib, *Taliban claim Kabul bomb attack on compound used by foreigners*, Reuters (July 31, 2016), <https://www.reuters.com/article/us-afghanistan-blast/taliban-claim-kabul-bomb-attack-on-compound-used-by-foreigners-idUSKCN10B0WA>.

¹⁹ Congressional Research Service, *Afghanistan: Background and U.S. Policy: In Brief* at 2 (updated Feb. 17, 2022), <https://crsreports.congress.gov/product/pdf/R/R45122>.

²⁰ U.S. Office of the Director of National Intelligence, National Counterterrorism Center, *Terrorist Groups*, https://www.dni.gov/nctc/groups/afghan_taliban.html (last visited Mar. 19, 222).

programs through United Nations Security Council Resolution 1988 (2011) for the Taliban and United Nations Security Council Resolution 1989 (2011) for Al Qaeda.²¹

35. The Taliban remains a Specially Designated Global Terrorist to this day. Executive Order 13,224, as amended, including by Executive Order 13,268, remains in place and continues to apply to the Taliban. *See Exec. Order. 13,268 § 1; see also 31 C.F.R. §§ 594.310, 594.311.* Accordingly, the United States continues to view the Taliban as a terrorist group constituting a “continuing and immediate threat of further attacks on United States Nationals or the United States.” Executive Order 13,224, as amended, blocks all Taliban property and interests in property that are subject to the jurisdiction of the United States. Many senior Taliban leaders (including, as discussed below, some now with senior leadership positions at DAB) also remain listed by the U.S. Government as Specially Designated Global Terrorists.

4. The Taliban, a Designated Terrorist Party, Took Control of Afghanistan in August 2021

36. On February 29, 2020, the United States and the Taliban entered into the “Agreement for Bringing Peace to Afghanistan” (“Taliban Doha Agreement”).²² On the same date, the United States and the former government of Afghanistan issued a “Joint Declaration between the Islamic Republic of Afghanistan and the United States of America for Bringing Peace to Afghanistan” (“Afghanistan Joint Declaration”).²³

²¹ S.C. Sanctions: *Security Council Committee Established Resolution 1988* (2011), <https://www.un.org/securitycouncil/sanctions/1988>; S.C. Res. 1988 (June 17, 2011), [https://www.undocs.org/Home/Mobile?FinalSymbol=S%2FRES%2F1988\(2011\)&Language=E&DeviceType=Desktop&LangRequested=False](https://www.undocs.org/Home/Mobile?FinalSymbol=S%2FRES%2F1988(2011)&Language=E&DeviceType=Desktop&LangRequested=False).

²² Agreement for Bringing Peace to Afghanistan between the Islamic Emirate of Afghanistan which is not recognized by the United States as a State and is known as the Taliban and the United States of America, Feb. 29, 2020, <https://www.state.gov/wp-content/uploads/2020/02/Agreement-For-Bringing-Peace-to-Afghanistan-02.29.20.pdf>.

²³ Joint Declaration between the Islamic Republic of Afghanistan and the United States of America for Bringing Peace to Afghanistan (Feb. 2020), <https://www.state.gov/wp-content/uploads/2020/02/02.29.20-US-Afghanistan-Joint-Declaration.pdf>.

37. Through the Taliban Doha Agreement and the Afghanistan Joint Declaration, the Taliban was offered the opportunity to participate in a peaceful intra-Afghan political settlement of the war in Afghanistan, to achieve a permanent ceasefire, and to participate in a post-settlement Afghan government. The Taliban further promised not to intervene in the internal affairs of the Afghan government.

38. The Taliban breached the Taliban Doha Agreement.

39. In the summer of 2021, as most U.S. military forces withdrew from Afghanistan, the Taliban launched a major offensive and rapidly consolidated control over the country through violence and intimidation instead of participating in the peaceful intra-Afghan process described in the Taliban Doha Agreement and the Afghanistan Joint Declaration. By August, the Taliban had taken over DAB facilities in several provinces around Afghanistan. By mid-August, the Taliban had captured Kabul and taken control of DAB entirely.

5. The Taliban’s Return to Control Presents a Terrorism Threat

40. The Taliban’s return to control of Afghanistan repeats history. In the late 1990s, as discussed above, the Taliban used its control of Afghan territory and Afghan government institutions, including specifically DAB, to materially support Al Qaeda terrorism, which paved the way for the September 11 attacks. Today, the Taliban has consolidated control over that same territory, has once again taken control of Afghan government institutions, including specifically DAB, and remains a terrorist organization with close ties to, and involvement with, international terrorist organizations including Al Qaeda.

41. According to the U.S. Government, “Al-Qaeda maintains close contacts” and a “strong relationship” with the Taliban, “providing advice, guidance, and financial support.” In January 2021, the U.S. Treasury Department publicly assessed that as recently as 2020, “Al

Qaeda [was] gaining strength in Afghanistan while continuing to operate with the Taliban under the Taliban’s protection.” The Treasury Department further assessed that “Al Qaeda capitalizes on its relationship with the Taliban through its network of mentors and advisers who are embedded with the Taliban, providing advice, guidance, and financial support.” As of May 2020, the Taliban and Al Qaeda “continued to meet regularly.”²⁴

42. According to the U.S. Government, as of March 2022, “the Taliban takeover threatens U.S. interests, including the possibility of terrorist safe havens re-emerging.”²⁵ According to the Director of National Intelligence, Al Qaeda maintains a presence in Afghanistan and “will try to maintain its presence in Afghanistan and capitalize on permissive operating environments.”²⁶ The Director of National Intelligence has further noted that “Al-Qa’ida probably will gauge its ability to operate in Afghanistan under Taliban restrictions and will focus on maintaining its safe haven before seeking to conduct or support external operations from Afghanistan.”²⁷

43. According to State Department Deputy Assistant Secretary and Special Representative for Afghanistan Thomas West, “the Taliban has no interest in co-operating with the United States when it comes to fulfilment of their commitments to the Doha agreement,” which required the group to cut ties with Al Qaeda.²⁸

²⁴ U.S. Treas. Dep’t Mem. *Operation Inherent Resolve* (Jan. 4, 2021), <https://oig.treasury.gov/sites/oig/files/2021-01/OIG-CA-21-012.pdf>.

²⁵ Dir. of Nat’l Intelligence, *Annual Threat Assessment of the U. S. Intelligence Community* at 5 (Feb. 2022), <https://www.odni.gov/files/ODNI/documents/assessments/ATA-2022-Unclassified-Report.pdf>.

²⁶ *Id.* at 26.

²⁷ *Id.*

²⁸ Bryant Harris, *Biden’s Afghanistan envoy details ‘honest and productive’ dialogue with Taliban*, The National News (Feb. 15, 2022), <https://www.thenationalnews.com/world/us-news/2022/02/15/bidens-afghanistan-envoy-details-honest-and-productive-dialogue-with-taliban/>.

6. The Taliban’s Return to Control Significantly Increases AML/CFT Risks

44. In March 2022, the Department of State found that “The Taliban have not announced the adoption of any purported anti-money laundering/combating the financing of terrorism (AML/CFT) laws and regulations” and that FinTRACA, the Afghan Financial Intelligence Unit at DAB, is “non-operational.”²⁹

45. On October 5, 2021, former U.S. Treasury Department and National Security Council official Adam Smith testified before the Senate Committee on Banking, Housing, and Urban Affairs, stating that, “From the perspective of sanctions, the Taliban’s move from rebel group at the periphery to central government leadership is unprecedented. There has never been a case of which I am aware in which a designated terrorist group has assumed the control of an entire jurisdiction.”³⁰

46. Brian O’Toole, a former U.S. Treasury Department official, wrote that “Many of those with expertise and experience fled the country, and the Taliban does not have the capability or the proclivity to run a modern administrative state.”³¹

47. The Financial Action Task Force (FATF), the leading intergovernmental organization through which governments cooperate on AML/CFT issues, released a statement on October 21, 2021 regarding the heightened risk of money laundering and terrorist financing in light of the Taliban’s takeover. The statement declared that, “In light of recent events in Afghanistan, the FATF, as the global standard setting body for anti-money laundering and

²⁹ U.S. State Dep’t, *International Narcotics Control Strategy Report: Money Laundering* at 32-33 (Mar. 2022), <https://www.state.gov/wp-content/uploads/2022/03/22-00768-INCSR-2022-Vol-2.pdf>.

³⁰ *Afghanistan’s Future: Assessing the National Security, Humanitarian, and Economic Implications of the Taliban Takeover*: Hearing before the Senate Comm. on Banking, Housing, Urban Affairs (Oct. 2021), <https://www.banking.senate.gov/imo/media/doc/Smith%20Testimony%2010-5-21.pdf>.

³¹ Brian O’Toole, *On Afghanistan’s \$7B Question, Biden Gets it Right*, Atlantic Council (Feb. 15, 2022), <https://www.atlanticcouncil.org/blogs/new-atlanticist/on-afghanistans-7b-question-biden-gets-it-right/>.

counter-terrorist financing, expresses its concern about the current and evolving money laundering and terrorist financing risk environment in the country.”³²

48. Thus, from almost every perspective, the Taliban’s takeover of Afghanistan has significantly elevated the threat of international terrorism, and its control over the Afghan banking, financial, and monetary systems creates significant AML/CFT risks.³³

III. Da Afghanistan Bank is Currently Controlled and Directed by the Taliban

49. As explained in detail herein, the Taliban has taken control over DAB. In doing so, it also took control over assets DAB held in Afghanistan and multiple financial institutions in countries around the world. In response, the United States in August 2021 froze access to \$7 billion of DAB’s holdings in financial institutions in the United States, including financial assets at the Federal Reserve Bank of New York. Pursuant to President Biden’s February 11, 2022 “Executive Order on Protecting Certain Property of Da Afghanistan Bank for the Benefit of the People of Afghanistan,” all property and interests in property of DAB held in the United States have been transferred, or are in the process of being transferred, to the Federal Reserve Bank of New York, and were blocked.³⁴

50. Pursuant to OFAC License No. DABRESERVES-EO-2022-886895-1 and this Court’s February 25, 2022 Order, I understand that approximately \$3.5 billion of the estimated \$7 billion at the Federal Reserve Bank of New York has been released from any judicial restraint

³² FATF, *Outcomes FATF Plenary* (Oct. 21, 2021), <https://www.fatf-gafi.org/publications/fatfgeneral/documents/outcomes-fatf-plenary-october-2021.html> and FATF, *Public Statement on the Situation in Afghanistan*, <https://www.fatf-gafi.org/publications/fatfgeneral/documents/afghanistan-2021.html> (last visited Mar. 19, 2022).

³³ See Alex Zerden, *Reassessing Counter Terrorism Financing in a Taliban-Controlled Afghanistan*, N.Y. Univ. Law (Sept. 17, 2021), <https://www.justsecurity.org/78221/reassessing-counter-terrorism-financing-in-a-taliban-controlled-afghanistan/>.

³⁴ Exec. Order 14064, Fed. Reg. 8391 (Feb. 11, 2022), <https://www.whitehouse.gov/briefing-room/presidential-actions/2022/02/11/executive-order-on-protecting-certain-property-of-da-afghanistan-bank-for-the-benefit-of-the-people-of-afghanistan/>.

created by the Havlish Creditor’s August 27, 2021 writ of execution (“Havlish Writ”) and the Doe Creditors’ September 27, 2021 writ of execution (“Doe Writ”). I understand the funds at the Federal Reserve Bank of New York that are not regulated by the OFAC License are still restrained by the Havlish and Doe Wrists. *See* MDL Dkt. 7701.

51. In my opinion, the Taliban now controls all aspects of DAB’s operations. Based on my research, my interpretation of media reports, DAB public statements, and communications with former and current DAB staff and other knowledgeable individuals, I understand that since mid-August 2021, the Taliban has taken control of DAB. They have done so by, among other things, appointing DAB’s leadership (at least two of whom are individually Specially Designated Global Terrorist (SDGTs)) and directing DAB’s day-to-day activities.

A. DAB’s Previous Leadership Fled to Evade the Taliban

52. As the Taliban took control of Kabul, the previous senior leadership of DAB either fled Afghanistan or went into hiding. Ajmal Ahmady, who had been the Acting Governor of DAB since June 2020, fled Afghanistan on the day Kabul fell to the Taliban aboard a military C-17 transport aircraft.³⁵ In a November 2021 interview, Ahmady stated that he would not go back to Afghanistan, because has no “intention of returning to work for the Taliban” and would not “feel safe.”³⁶

53. Based on information reported to me personally, I understand that several other senior DAB officials either fled Afghanistan or went into hiding, including the Director General of Supervision, the Director General of Monetary Policy, the Director General of Market

³⁵ David Beckworth, *Ajmal Ahmady on the Afghan Economy and the Challenges Facing the Nation’s Future* (Nov. 15, 2021), <https://www.mercatus.org/bridge/podcasts/11152021/ajmal-ahmady-afghan-economy-and-challenges-facing-nation-s-future>.

³⁶ *Id.*

Operations, and the Director General of FinTRACA. Like Ahmady, they fled because they did not want to work for the Taliban.

B. The Taliban Has Replaced Fleeing DAB Leadership With U.S.- Designated Terrorists and Other Taliban Loyalists

54. The Taliban has replaced DAB’s fleeing, non-Taliban leadership with its own loyalists, including individuals sanctioned as terrorists by the United States, the United Nations, the United Kingdom and the European Union.

55. On August 23, 2021, the Taliban appointed Haji Mohammed Idris, a/k/a Abdul Qahir, a/k/a Haji Idrees as Acting Governor of DAB.³⁷ A Taliban spokesman, Zabiullah Mujahid, announced Idris’s appointment as head of DAB via a statement.³⁸ On September 11, 2021, DAB posted its first press release following the Taliban takeover and identified Idris as the Acting Governor.³⁹ According to media reports at the time, Idris was “an obscure official” and a “Taliban loyalist” with little formal education and no formal training in macro- or microeconomic policy.⁴⁰ I understand this to signify that Idris’s appointment was a result of his longstanding ties to the Taliban. His only experience with financial matters stemmed from his role as head of the Taliban’s finance commission, a commission whose activities included collecting money from narcotics trafficking and illegal taxes from businesses and farmers to fund

³⁷ Eltaf Najafizada, *Taliban Name Obscure Official as Central Bank Chief with Crisis Looking*, Bloomberg (Aug. 23, 2021), <https://www.bloomberg.com/news/articles/2021-08-23/taliban-name-obscure-official-central-bank-chief-as-crisis-looms>.

³⁸ Tamila Varshalomidze et al., *Taliban Warns of “Consequences” if US Delays Withdrawal*, Aljazeera (Aug. 23, 2021), <https://www.aljazeera.com/news/2021/8/23/afghan-guard-killed-in-armed-clash-at-kabul-airport-live-news>.

³⁹ Da Afghanistan Bank, *DAB Leadership Holds Meeting with the High Ranking Officials of Commercial Banks* (Sept. 11, 2021), <https://dab.gov.af/dab-leadership-holds-meeting-high-ranking-officials-commercial-banks>.

⁴⁰ Tom Arnold et al., *Taliban Launch Charm Offensive with Afghan Banks Amid Funding Fears*, Reuters (Sept. 1, 2021), <https://www.reuters.com/world/asia-pacific/exclusive-taliban-launch-charm-offensive-with-afghan-banks-amid-funding-fears-2021-09-01>.

the Taliban's insurgency.⁴¹ As I have noted in September 2021, "the Taliban prioritizes loyalty to the organization over technical competency."⁴² Based on my experience with DAB, if DAB were operating independently of the Taliban, someone with Idris's minimal qualifications would not have been installed as Acting Governor of the bank.

56. In a November 15, 2021 interview, Ahmady, the former Acting Governor of DAB, echoed the reports regarding Idris, stating that he is "a loyalist to the Taliban" without "a background in banking or finance or technical matters."

57. Ahmady also described other changes in the staffing of DAB following the Taliban takeover, including that women were "told to stay home" and that there has been "a loss or degradation of institutional capability within the central bank."⁴³ In a January 14, 2022 interview, Ahmady stated that Idris has "kept some members of the staff that were there when I was governor and some others have been fired or relieved from working at the central bank."⁴⁴

58. Idris appears to still be DAB's Acting Governor. A January 2022 DAB press release refers to him as the Acting Governor using both the name "Mr. Abdul Qahir" and the name "Haji Idrees."⁴⁵ A March 10, 2022 DAB press release indicated that Idris addressed a training workshop for Afghan media in his capacity as DAB's Acting Governor.⁴⁶ Idris has also

⁴¹ See e.g., Press Release U.S. Treas. Dep't, *Treasury Sanctions Taliban and Haqqani Network Financiers and Facilitators* (Jan. 25, 2018), <https://home.treasury.gov/news/press-releases/sm0265> (2018 OFAC designation of Taliban officials, including Abdul Qadeer Basir Abdul Baseer who "As of early 2014, collected all the money from narcotics trafficking...").

⁴² Zerden, *supra* note 33.

⁴³ Beckworth, *supra* note 35.

⁴⁴ Tracy Alloway & Joe Weisenthal, *Transcript: Afghanistan's Former Central Bank Chief on the Dire State of the Country's Economy*, Bloomberg Law (Jan. 14, 2022) [On File].

⁴⁵ Da Afghanistan Bank, *Meeting with the Afghanistan Commercial Companies and Investors' Association Representatives* (Jan. 2022), <https://dab.gov.af/meeting-afghanistan-commercial-companies-and-investors'-association-representatives>. The English-language press release is dated both Jan 23 and Jan 27, 2022.

⁴⁶ DAB, *DAB Held a Workshop for Mass Media Representatives* (Mar. 2022), <https://dab.gov.af/dab-held-workshop-mass-media-representatives>.

appeared on the DAB Twitter account, @AFGCentralbank, as recently as March 20, 2022, and is referred to as DAB's Acting Governor.⁴⁷

C. The Taliban Installed an Internationally Designated Terrorist as the First Deputy Governor

59. In 2021, the Taliban also installed Ahmad Zia Agha (Agha), also known as Noor Ahmad Agha, as the DAB First Deputy Governor. Based on my personal knowledge of DAB's system of administration and leadership, the First Deputy Governor is a highly consequential position at DAB, especially when the governor is only operating in an "acting" capacity. The Afghanistan Banking Law appears silent on the status of a Governor operating in an "acting" capacity. Thus, while Idris is the Acting Governor of DAB, Agha operates practically as an administrative and operational leader of DAB in coordination with the Second Deputy Governor (identified below as a likely Specially Designated Global Terrorist). Idris, Agha, and the Second Deputy Governor are currently the three most senior officials at DAB.

60. The Wall Street Journal recently reported that Agha is a "senior Taliban military and financial leader sanctioned for allegedly managing funds intended for bombs and for distributing money to Taliban commanders and associates abroad."⁴⁸ On June 21, 2011, OFAC designated Agha as an SDGT under Executive Order 13,224,⁴⁹ in consultation with the U.S. Departments of State, Homeland Security, Justice, and other relevant agencies.⁵⁰ According to the Federal Register,⁵¹ Agha's designation included the following identifiers, which are common

⁴⁷ DAB, Twitter (Mar. 20, 2022), <https://twitter.com/AFGCentralbank/status/1505444516446314496>.

⁴⁸ Ian Talley et al., *Sanctioned Taliban Financier Holds Leadership Post at Afghan Central Bank*, Wall St. J. (Mar. 11, 2022), <https://www.wsj.com/articles/sanctioned-taliban-financier-tapped-to-help-lead-afghan-central-bank-11647003720>.

⁴⁹ *Designation of Four Individuals Pursuant to Exec. Order 13224*, 64 Fed. Reg. 37891 (June 28, 2011), <https://www.federalregister.gov/documents/2011/06/28/2011-16185/designation-of-four-individuals-pursuant-to-executive-order-13224>.

⁵⁰ *Id.*

⁵¹ *Id.*

ways to improve identification and reduce false positive identifications, especially by financial institution compliance departments and automated software screening services:

The designees are as follows:

1. AGHA, Ahmad Zia (a.k.a. AGHA SAYEED, Sia; a.k.a. AGHA, Zia; a.k.a. AHMAD, Noor; a.k.a. AHMED, Noor); DOB 1974; POB Maiwand District, Qandahar Province, Afghanistan; Haji (individual) [SDGT]

61. Below is a screenshot taken on March 12, 2022, from a search result of “Ahmad Zia Agha” using OFAC’s Sanctions List Search application, a publicly available tool which “is designed to facilitate the use of the Specially Designated Nationals and Blocked Persons list (“SDN List”) and other sanctions lists administered by OFAC.”⁵²

The screenshot shows a web browser displaying the OFAC Sanctions List Search interface. The page title is "Sanctions List Search". At the top, there is a detailed description of the tool's purpose and the various lists it searches against. Below this, there are download links for the SDN List and Consolidated Non-SDN List, as well as links to the OFAC website and program code key. The main content area displays two tables: "Details:" and "Aliases:". The "Details:" table contains the following information:

Type:	Individual	List:	SDN
Last Name:	AGHA	Program:	SDGT
First Name:	Ahmad Zia	Nationality:	
Title:	Haji	Citizenship:	
Date of Birth:	1974	Remarks:	
Place of Birth:	Maiwand District, Qandahar Province, Afghanistan		

The "Aliases:" table lists the following entries:

Type	Category	Name
a.k.a.	strong	AGHA, Zia
a.k.a.	strong	AHMAD, Noor
a.k.a.	strong	AHMED, Noor
a.k.a.	strong	AGHA SAYEED, Sia

⁵² Office of Foreign Assets Control, *Sanctions List Search* (last updated Mar. 18, 2022), <https://sanctionssearch.ofac.treas.gov/Details.aspx?id=12795>.

62. On January 6, 2012, the United Nations Security Council 1988 Sanctions Committee, a group created by the United Nations to implement United Nations Security Council Resolution 1988, added Agha to the Committee's 1988 Sanctions List, which contains "individuals and entities subject to the assets freeze, travel ban, and arms embargo set out in paragraph 1 of Security Council resolution 1988 (2011)."⁵³ The United Nations Security Council found that Agha is a "Senior Taliban official with military and financial responsibilities as of 2011," who "[led] the Taliban's Military Council" and in 2008-09, "served as a Taliban finance officer and distributed money to Taliban commanders in [the] Afghanistan/Pakistan border area."⁵⁴ A screenshot of Agha's information is provided below:

A. Individuals associated with the Taliban

T.I.A.156.12. Name: 1: AHMAD 2: ZIA 3: AGHA 4: na

Name (original script): احمد ضیا آغا

Title: Haji **Designation:** na **DOB:** 1974 **POB:** Maiwand District, Kandahar Province, Afghanistan **Good quality a.k.a.:** a) Zia Agha b) Noor Ahmad c) Noor Ahmed **Low quality a.k.a.:** Sia Agha Sayeed **Nationality:** na **Passport no.:** na **National identification no.:** na **Address:** na **Listed on:** 6 Jan. 2012 **Other information:** Senior Taliban official with military and financial responsibilities as at 2011. Leader of the Taliban's Military Council as of 2010. In 2008 and 2009, served as a Taliban finance officer and distributed money to Taliban commanders in Afghanistan/Pakistan border area.

63. The United Nations Security Council maintains a webpage providing derogatory information about Agha through a narrative summary of the reasons for his sanctions designation.⁵⁵ A screenshot of that information is provided below:

⁵³ Press Release S. C., *Security Council 1988 Sanctions Committee Adds Four Individuals to its Sanctions List* (Jan. 6, 2012), <https://www.un.org/press/en/2012/sc10512.doc.htm>.

⁵⁴ *Id.*

⁵⁵ S. C.: Ahmad Zia Agha, <https://www.un.org/securitycouncil/sanctions/1988/materials/summaries/individual/ahmad-zia-agha>.

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AHMAD ZIA AGHA

In accordance with paragraph 20 of resolution 2160 (2014), the 1988 Sanctions Committee makes accessible a narrative summary of reasons for the listing for individuals, groups, undertakings and entities included in the 1988 Sanctions List.

TAI.156
AHMAD ZIA AGHA
Date on which the narrative summary became available on the Committee's website: 6 January 2012
Reason for listing:
Ahmad Zia Agha was listed on **6 January 2012** pursuant to paragraph 3 of resolution 1988 (2011) as being associated with the Taliban for "participating in the financing, planning, facilitating, preparing or perpetrating of acts or activities by, in conjunction with, under the name of, on behalf of, or in support of" and "otherwise supporting acts or activities of those designated and other individuals, groups, undertakings and entities associated with the Taliban" in constituting a threat to the peace, stability and security of Afghanistan.
Additional information:
Ahmad Zia Agha is a senior Taliban leader with military and financial responsibilities. In 2010, Ahmad Zia Agha was the leader of the Taliban's military shura (council), which directed Taliban military operations in western Afghanistan. In 2009, Ahmad Zia Agha served as a Taliban finance officer and distributed money to Taliban commanders. As part of his financial responsibilities, Ahmad Zia Agha transferred tens of thousands of dollars to Taliban shadow provincial governors; the Taliban's shura treasurer also entrusted Ahmad Zia Agha with hundreds of thousands of dollars to fund improvised explosive device (IED) operations. In 2008, Ahmad Zia Agha was involved in distributing funds to Taliban commanders in Afghanistan and transferred money to individuals associated with the Taliban outside the country. He has also facilitated communications
Related listed individuals and entities:

64. During my work as the senior U.S. Treasury Department official in Kabul in 2018 and 2019, I never had a reason to believe that a senior DAB official had been a “senior Taliban leader with military and financial responsibilities” or was “entrusted...with hundreds of thousands of dollars to fund improvised explosive device (IED) operations.” To the contrary, I worked with DAB leadership to shut down financing for the Taliban, its officials, and its military operations. While I served in Afghanistan, IEDs killed and wounded numerous U.S. military personnel.

65. The United Kingdom has also designated Agha as a target of financial sanctions. The United Kingdom first designated Agha on January 6, 2012. The United Kingdom’s HM Treasury oversees financial sanctions through its Office of Financial Sanctions Implementation (OFSI). A screenshot of OFSI’s designation of Agha is provided below from its “Consolidated

List of Financial Targets in the UK, Status: Asset Freeze Targets," last updated on February 25, 2022:⁵⁶

19. Name 6: AGHA 1: AHMAD 2: ZIA 3: n/a 4: n/a 5: n/a.

Name (non-Latin script): أحمد سيدنا آغا

Title: Haji **DOB:** ---/---/1974. **POB:** Maiwand District, Kandahar Province, Afghanistan **Good quality a.k.a:** (1) AGHA, Zia (2) AHMAD, Noor (3) AHMED, Noor **Low quality a.k.a:** SAYEED, Agha, Sia **Other Information:** (UK Sanctions List Ref):AFG0122 (UN Ref):TAi.156 Senior Taliban official with military and financial responsibilities as at 2011. Leader of the Taliban's Military Council as of 2010. In 2008 and 2009, served as a Taliban finance officer and distributed money to Taliban commanders in Afghanistan/ Pakistan border area. INTERPOL-UN Security Council Special Notice web link: <https://www.interpol.int/en/How-work/Notices/View-UN-Notices-Individuals click here> **Listed on:** 29/03/2012 **UK Sanctions List Date Designated:** 06/01/2012 **Last Updated:** 01/02/2021 **Group ID:** 12454.

66. The European Union has also designated Agha as of at least March 24, 2012.⁵⁷ A screenshot of the European Union's designation is provided below:

24.3.2012

EN

Official Journal of the European Union

L 87/25

Additional information from the narrative summary of reasons for listing provided by the Sanctions Committee:

Abdul Aziz Abbasin is a key commander in the Haqqani Network, a Taliban-affiliated group of militants that operates from Eastern Afghanistan and North Waziristan Agency in the Federally Administered Tribal Areas of Pakistan. As of early 2010, Abbasin received orders from Sirajuddin Haqqani and was appointed by him to serve as the Taliban shadow governor of Orgun District, Paktika Province, Afghanistan. Abbasin commands a group of Taliban fighters and has assisted in running a training camp for foreign fighters based in Paktika Province. Abbasin has also been involved in ambushing vehicles supplying Afghan government forces and in the transport of weapons to Afghanistan.

(127) Ahmad Zia Agha (alias (a) Zia Agha (b) Noor Ahmad (c) Noor Ahmed (d) Sia Agha Sayeed)

Title: Haji. **Date of birth:** 1974. **Place of birth:** Maiwand District, Kandahar Province, Afghanistan. **Other information:** (a) Senior Taliban official with military and financial responsibilities as at 2011, (b) Leader of the Taliban's Military Council as of 2010, (c) In 2008 and 2009, served as a Taliban finance officer and distributed money to Taliban commanders in Afghanistan/Pakistan border area. **Date of UN designation:** 6.1.2012.

⁵⁶ Office of Fin. Sanctions Implementation HM Treasury, *Consolidated List of Financial Sanctions Targets in the UK*, (last updated Feb. 25, 2022), https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1057454/Afghanistan.pdf.

⁵⁷ Official Journal of the European Union, Council Implementing Decision (CFSP) 2017/476, <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32017D0416&rid=2>.

67. Interpol, the International Criminal Police Organization, an intergovernmental body with 195 member countries,⁵⁸ lists Agha, along with identifying information,⁵⁹ in a section on its public website to “alert[] global police to individuals and entities that are subject to sanctions imposed by the United Nations Security Council.”⁶⁰ A screenshot of the beginning of Agha’s profile on the Interpol website is provided below:

The screenshot shows the Interpol website's header with the logo and navigation links: Who we are, Crimes, How we work, Our partners, What you can do, News, and Wanted persons. Below the header, there is a "BACK TO SEARCH RESULTS" link. The main content area displays a placeholder image for a photo, the name "AGHA, AHMAD ZIA", and a "PHOTO NOT AVAILABLE" message. To the right of the name is a small UN flag icon. Below this, under the heading "Identity particulars", is a table of personal information:

Family name	AGHA
Forename	AHMAD ZIA
Name in original script	أغا
Forename in original script	احمد زیا
Gender	Male
Date of birth	//1974 (48 years old)

68. I do not know Agha and did not transact with him during my time as the U.S. Treasury Department’s Financial Attaché at the U.S. Embassy in Kabul, Afghanistan, in 2018

⁵⁸ Interpol: *What is Interpol*, <https://www.interpol.int/en/Who-we-are/What-is-INTERPOL>.

⁵⁹ Interpol, *Agha, Ahmad Zia*, <https://www.interpol.int/en/How-we-work/Notices/View-UN-Notices-Individuals#2012-308182>.

⁶⁰ Interpol, *View UN Notices-Individuals*, <https://www.interpol.int/en/How-we-work/Notices/View-UN-Notices-Individuals#>.

and 2019. If I were to have transacted with him, I would have needed to obtain a license from OFAC because Agha is an SDGT.

69. Former Canadian intelligence analyst and international terrorism financing expert Jessica Marin Davis has confirmed that Agha is “in charge of the AML/CFT implementation” at DAB.⁶¹

70. According to Adam Smith, a former U.S. Treasury Department and National Security Council official, Agha’s role leading DAB “increases the risk profile more than it was before. It adds a wrinkle and a challenge to an already challenging environment.”⁶²

71. According to Adam Weinstein, a Research Fellow at the Quincy Institute for Responsible Statecraft with expertise on Afghanistan,⁶³ “For the Taliban to turn around and appoint a designated person to lead the central bank, that shows an absolute disconnect from the reality they are facing . . . It’s a slap in the face to the international community.”⁶⁴

72. Notwithstanding Agha’s multiple terrorism designations, DAB prominently promotes Agha on its social media, a primary mechanism for the Taliban to broadcast DAB-related messages. For instance, on February 13, 2022, the Taliban used DAB’s official Twitter account, @AFGCentralbank,⁶⁵ to identify Noor Ahmad Agha as the “First Vice President” of DAB (translated by Google Translate). I believe “First Vice President” to mean “First Deputy Governor” given the context and organizational structure of DAB. Pictures accompanying the tweet show the Taliban flag, the DAB flag, and the Afghan national flag at DAB headquarters.⁶⁶

⁶¹ Twitter, *JMDavis*, (Mar. 11, 2022), <https://twitter.com/JessMarinDavis/status/1502282682859806726?s=20&t=ccs0VCTnhw4j6WC1hRGX3A>.

⁶² Talley, *supra* note 48.

⁶³ Quincy Inst. for Responsible Statecraft, *Bio Adam Weinstein*, <https://quincyinst.org/author/aweinstein/>.

⁶⁴ Talley, *supra* note 48.

⁶⁵ This Twitter account had over 36,400 followers as of March 17, 2022.

⁶⁶ DAB Twitter (Feb 13, 2022), <https://twitter.com/AFGCentralbank/status/1492824469425070085>.



D. The Taliban Likely Installed an OFAC Designated Terrorist as the Second Deputy Governor

73. Abdul Qadeer Ahmad currently serves as the Second Deputy Governor of DAB.

While Idris is the Acting Governor of DAB, Ahmad operates as an administrative and operational leader of DAB in coordination with Agha, the First Deputy Governor (and a Specially Designated Global Terrorist).

74. In my expert opinion, Abdul Qadeer Ahmad is most likely an alias for Abdul Qadeer Basir Abdul Baseer a/k/a Abdul Qadir Ahmat (Baseer). This assessment is based on several factors, including the Taliban's control of DAB through its leadership by Idris and Agha, the similarity of a name variant provided by the U.S. Government and other authorities (Abdul Qadir Ahmat), Baseer's senior financial and military leadership role in the Taliban as publicly

identified by the U.S. Government and the United Nations, and the Taliban’s pattern of purging technocratic leadership from key institutions and substituting established Taliban members.

75. The Treasury Department designated Baseer on January 25, 2018 pursuant to Executive Order 13,224 for acting on behalf of the Taliban.⁶⁷ Baseer was a member of the Taliban Finance Commission and “led the Finance Commission of the Taliban Peshawar Shura, which was responsible for the Taliban’s military and political activities in northern and eastern Afghanistan.” Baseer also “collected all the money from narcotics trafficking, precious stone sales, tithing, and almsgiving.” Baseer served as the Taliban treasurer, advised the Taliban’s Peshawar Military Council on financial matters, led the Taliban’s Peshawar Financial Commission, and personally delivered money from the Taliban’s leadership committee, or Shura to Taliban groups throughout Pakistan. A screenshot from the Treasury Department OFAC designation is provided below to describe additional derogatory information provided publicly by the U.S. Government:

⁶⁷ *Treasury Sanctions Taliban and Haqqani Network Financiers and Facilitators, supra* note 41.

ABDUL QADEER BASIR ABDUL BASEER

Abdul Qadeer Basir Abdul Baseer (Baseer) was designated for acting for or on behalf of the Taliban.

In the fall of 2017, Baseer provided Taliban commanders with tens of thousands of dollars for previous attacks conducted in Kunar Province, Afghanistan. In early 2016, Baseer hosted meetings with leaders of the Taliban to convince them to support the then-Supreme Leader of the Taliban, Mullah Akhtar Mohammad Mansur. In the spring of 2015, Baseer, a member of the Taliban Finance Commission, hosted a meeting of the Taliban Senior Shura to plan for the spring 2015 fighting season. As of early 2015, Baseer led the Finance Commission of the Taliban Peshawar Shura, which was responsible for the Taliban's military and political activities in northern and eastern Afghanistan. Baseer was responsible for collecting financial aid from domestic and foreign sponsors. As of early 2014, Baseer disbursed funds directly to Taliban shadow governors and was responsible for approving large expenses. As of early 2014, Baseer collected all the money from narcotics trafficking, precious stone sales, tithing, and almsgiving.

As of 2009, he served as the treasurer for the Taliban in Peshawar, Pakistan. He was the financial advisor to the Taliban's Peshawar Military Council and head of the Taliban's Peshawar Financial Commission as of early 2010. He personally delivers money from the Taliban's leadership Shura to Taliban groups throughout Pakistan.

During the Taliban regime, Baseer was the General Consul of the Taliban in Islamabad, Pakistan, and according to the United Nations, he also served as the Taliban regime's Military Attaché at the Taliban Embassy in Islamabad, Pakistan.

76. It is my expert opinion that this derogatory information is antithetical to the qualifications to serve as the third-highest ranking official in a normal central bank.

77. OFAC provides the following aliases and identifiers for Baseer, which are common ways to improve identification and reduce false positive identifications, especially by financial institution compliance departments and automated software screening services:⁶⁸

⁶⁸ U.S. Treas. Dep't, *Counter Terrorism Designations* (Jan. 25, 2018), <https://home.treasury.gov/policy-issues/financial-sanctions/recent-actions/20180125>.



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Counter Terrorism Designations



01/25/2018

SPECIALLY DESIGNATED NATIONALS LIST UPDATE

The following individuals have been added to OFAC's SDN List:

ABDUL BASEER, Abdul Qadeer Basir (a.k.a. AHMAT, Abdul Qadir; a.k.a. BASIR, Abdul Qadir; a.k.a. HAQQANI, Abdul Qadir; a.k.a. QADIR, Abdul; a.k.a. "Nasibullah"), Peshawar, Pakistan; DOB 1964; POB Nangarhar Province, Afghanistan; nationality Afghanistan; Gender Male; Passport D000974 (Afghanistan) (individual) [SDGT] (Linked To: TALIBAN).

78. Baseer has appeared on DAB's official Twitter account, including on March 9, 2022, where his name is translated as “Abdul Qadir Ahmad” and his title is “Second Deputy Governor of Da Afghanistan Bank.”⁶⁹ The reference to “Child Protection Agency” in the tweet is likely a mistranslation of the non-governmental organization Save the Children. A screenshot is provided below for reference:

⁶⁹ DAB Twitter (Mar. 9, 2022), <https://twitter.com/AFGCentralbank/status/1501519102027911172>.



79. Baseer was also sanctioned by the United Nations for being the military attaché for the Taliban and being the financial advisor to the Taliban Peshawar Military Council as well as the head of the Taliban Peshawar Financial Commission.⁷⁰ A screenshot of the derogatory information provided by the United Nations is below:

TAI.128 Name: 1: ABDUL QADEER 2: BASIR 3: ABDUL BASEER 4: na
Name (original script): عبد القادر بصير عبد البصیر
Title: a) General b) Maulavi Designation: Military Attaché, Taliban Embassy, Islamabad, Pakistan DOB: 1964 POB: a) Surkh Rod District, Nangarhar Province, Afghanistan b) Hisarak District, Nangarhar Province, Afghanistan Good quality a.k.a.: a) Abdul Qadir b) Ahmad Hajji c) Abdul Qadir Haqqani d) Abdul Qadir Basir Low quality a.k.a.: na
Nationality: Afghan Passport no.: Afghanistan number D 000974 National identification no.: na Address: na Listed on: 25 Jan. 2001 (amended on 3 Sep. 2003, 25 Jul. 2006, 23 Apr. 2007, 18 Jul. 2007, 21 Sep. 2007, 29 Nov. 2011, 13 Aug. 2012) Other information: Financial advisor to Taliban Peshawar Military Council and Head of Taliban Peshawar Financial Commission. Believed to be in Afghanistan/Pakistan border area. Review pursuant to Security Council resolution 1822 (2008) was concluded on 21 Jul. 2010.

⁷⁰ United Nations, *Consolidated United Nations Security Council Sanctions List* (Oct. 2, 2015), <https://www.un.org/french/sc/committees/consolidated.htm>.

80. Interpol lists Baseer on its website to assist global police forces in complying with international sanctions.⁷¹ According to Interpol, Baseer has held positions such as head of Taliban's Peshawar Financial Commission and Financial Advisor to the Taliban Peshawar Military Council. A screenshot of the beginning of Baseer's derogatory information page on Interpol's website is provided below:

ABDUL QADEER, BASIR ABDUL BASEER

Identity particulars

Family name	ABDUL QADEER
Forename	BASIR ABDUL BASEER
Name in original script	عبد البصير
Forename in original script	عبدالقدیر بصیر
Gender	Male
Date of birth	//1964 (58 years old)
Place of birth	SURKH ROD DISTRICT / NANGARHAR PROVINCE, Afghanistan

81. The United Kingdom also designated Baseer as a target of financial sanctions and identified him as the Head of the Taliban Peshawar Financial Commission and the Financial Advisor to the Taliban Peshawar Military Council. The United Kingdom first designated Baseer

⁷¹ Interpol: *Abdul Qadeer, Basir Abdul Baseer*, <https://www.interpol.int/en/How-we-work/Notices/View-UN-Notices-Individuals#2007-22901> (last visited Mar. 19, 2022).

in 2001. A screenshot of OFSI's designation of Baseer is provided below from its "Consolidated List of Financial Targets in the UK, Status: Asset Freeze Targets," last updated on February 25, 2022:⁷²

4. **Name 6: ABDUL BASEER 1: ABDUL QADEER 2: BASIR 3: n/a 4: n/a 5: n/a.**

عبدالقادر بصير عبد البصیر:

Title: (1) General (2) Maulavi **DOB:** --/--/1964. **POB:** (1) Hisarak District, Nangarhar Province. (2) Surkh Rod District, Nangarhar Province, (1) Afghanistan (2) Afghanistan **Good quality a.k.a:** (1) BASIR, Abdul Qadir (2) HAJI, Ahmad (3) HAQQANI, Abdul Qadir (4) QADIR, Abdul **Nationality:** Afghanistan **Passport Number:** D 000974 **Passport Details:** Afghanistan number **Position:** (1) Head of Taliban Peshawar Financial Commission. (2) Military Attaché, Taliban Embassy, Islamabad, Pakistan **Other Information:** (UK Sanctions List Ref):AFG0098 (UN Ref):TAi.128 Financial advisor to Taliban Peshawar Military Council and Head of Taliban Peshawar Financial Commission. Believed to be in Afghanistan/Pakistan border area. Review pursuant to Security Council resolution 1822 (2008) was concluded on 21 Jul. 2010. INTERPOL-UN Security Council Special Notice web link: <https://www.interpol.int/en/How-we-work/Notices/View-UN-Notices-Individuals click here> **Listed on:** 23/02/2001 **UK Sanctions List Date Designated:** 25/01/2001 **Last Updated:** 01/02/2021 **Group ID:** 6911.

82. Baseer was also designated by the European Union. A screenshot of Baseer's designation information is provided below from the European Union's consolidated financial sanctions list, updated on March 15, 2022:⁷³

⁷² *Consolidated List of Financial Sanctions Targets in the UK*, *supra* note 56.

⁷³ European Commission, *European Union Consolidated Financial Sanctions List* (updated Mar. 18, 2022), https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwiOg-ftu832AhXIpxIEHeN_BSxQFnoECAkQAQ&url=https%3A%2F%2Fwebgate.ec.europa.eu%2Ffsd%2Ffsf%2Fpubl ic%2Ffiles%2FpdfFullSanctionsList%2Fcontent%3Ftoken%3DdG9rZW4tMjAxNw&usg=AOvVaw0ARqJS5nkNxPS8oyWH3C65.

EU reference number: EU.701.13

Legal basis: 2017/404 (OJ L 63)

Programme: AFG - Afghanistan

Identity information:

- **Name/Alias:** Abdul Qadeer Basir Abdul Baseer **Title:** (a) General, (b) Maulavi **Function:** Military Attaché, Taliban Embassy, Islamabad, Pakistan
- **Name/Alias:** Abdul Qadir
- **Name/Alias:** Ahmad Hajji
- **Name/Alias:** Abdul Qadir Haqqani
- **Name/Alias:** Abdul Qadir Basir

Birth information:

- **Birth date:** 1964 **Birth place:** Afghanistan, Surkh Rod District, Nangarhar Province
- **Birth date:** 1964 **Birth place:** Afghanistan, Hisarak District, Nangarhar Province

Citizenship information:

- **Citizenship:** Afghanistan

Identification document information:

- **Source:** Afghanistan **Document:** National passport D 000974

Remark: Believed to be in Afghanistan/Pakistan border area. Review pursuant to Security Council Resolution 1822 (2008) was concluded on 21 Jul. 2010. INTERPOL-UN Security Council Special Notice web link: <https://www.interpol.int/en/notice/search/un/1474039>

83. The presence of Taliban members at DAB is a new development. As noted earlier, I personally visited DAB facilities at least seven times between August 2018 and November 2019 to meet with DAB senior officials and communicated with many others almost daily. During these two years, I never met, spoke, or transacted with a DAB employee who was a known member of the Taliban or a sanctioned terrorist during any of my visits. Indeed, my understanding is that I would have needed to receive a general or specific license from OFAC before doing so. Furthermore, if I became aware that a DAB employee, especially a senior DAB official such as an Acting Governor, First Deputy Governor, or Second Deputy Governor, was a known member of the Taliban or a sanctioned terrorist, then there would likely have been severe practical, economic and diplomatic consequences for DAB and the former Afghan government.

84. In my dealings with DAB during my time in Kabul, my direct counterparts were DAB's permanent Governor, Mr. Khalil Sediq, and its First Deputy Governor, Mr. Wahidullah Nosher, who later served as Acting Governor. Based on my experiences with them, neither Mr. Sediq nor Mr. Nosher were members of the Taliban and, in fact, they actively opposed the Taliban.

E. Taliban Loyalists Have Been Installed to Carry Out DAB's Operations Throughout the Bank's Organization

85. Personnel changes at DAB involving non-Taliban employees have not been limited to senior officials. Based on my conversations with Afghans in the private business sector, I understand that Afghan businesspeople are encountering Taliban at all levels of DAB with greater frequency. From what is being communicated to me, Afghan businesspeople can readily distinguish between non-Taliban and Taliban employees of DAB.

86. Media reports, including an October 19, 2021 report in the Associated Press (AP), further confirm that the Taliban has asserted control over technocrats at the central bank, “command[ing]” and “order[ing]” them to return to work.⁷⁴ The AP reports that “[f]our employees from financial institutions” described “how the Taliban commanded bureaucrats from the previous government’s Finance Ministry, central bank and other state-owned banks to return to work.”⁷⁵ These accounts “were confirmed by three Taliban officials.”⁷⁶

87. In the article, Mawlawi Abdul Jabbar, described as a Taliban adviser, is reported to have said that the returning experts are “with the government.”⁷⁷

88. The AP report suggests that DAB technocrats do not want to work for the Taliban. Instead, “[m]any hope to leave Afghanistan. Given the chance, the technocrats running the country’s finances would also leave.” The AP interviewed one DAB official who said he was

⁷⁴ Samya Kullab, *The Economy on the Brink, Taliban Rely on Former Technocrats*, AP News (Oct. 19, 2021), <https://apnews.com/article/afghanistan-business-united-nations-economy-kabul-08db064b2e1d8986b3f731ae7f6589f4>.

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ *Id.*

waiting on his asylum papers to go to a Western country. “If it comes,” he told the AP, “I will definitely leave. I would never work with the Taliban again.”⁷⁸

89. In the context of my communications with people in Afghanistan, Afghan private sector officials, and former DAB officials and staff, I interpret the AP report to mean that DAB technocrats are doing what the Taliban is compelling them to do and that they would not work at DAB without being directed to work by the Taliban. I am furthermore concerned that both private and public communications from DAB officials under the Taliban’s control are likely coerced.

90. Disturbingly, the Taliban instructed female civil servants to stay at home when the Taliban took over in August 2021.⁷⁹ I understand that such an edict applies to female staff at DAB. The Taliban forced female bank employees at gunpoint to leave their jobs and go home without any determination of when they could return to work.⁸⁰

91. In my opinion, the Taliban’s ability to hire, fire, remove, replace and compel employees of DAB demonstrates the Taliban’s control over DAB.

F. The Taliban Council of Ministers Is Directing DAB’s Actions and Policies

92. The Taliban’s Council of Ministers is directing DAB activities through its Economic Commission, which undermines any pretense that DAB operates independently of Taliban control. A December 14, 2021 Reuters article, for example, describes economic decision making by the Taliban flowing from the Taliban’s Council of Ministers to the Economic

⁷⁸ *Id.*

⁷⁹ See e.g., E. Najafizada, *A Taliban Ban on Women in the Workforce Can Cost Economy \$1bn*, Bloomberg (Dec. 1, 2021), <https://www.aljazeera.com/economy/2021/12/1/talibans-ban-on-women-in-the-workforce-can-cost-economy-1bn> and Adela Suliman et al., *Taliban tells Kabul’s Female City Government Employees Not to Come to Work*, Wash. Post (Mar. 21, 2021), <https://www.washingtonpost.com/world/2021/10/21/taliban-women-work-afghanistan/>.

⁸⁰ Rupam Jain, *Afghan Women Forced from Banking Jobs As Taliban Take Control*, Reuters (Aug. 15, 2021), <https://www.reuters.com/world/asia-pacific/afghan-women-bankers-forced-roles-taliban-takes-control-2021-08-13/>.

Commission to the Taliban-controlled DAB.⁸¹ Due to currency volatility, the Council of Ministers “instructed” the Economic Commission to “take steps to ensure the stability of the afghani.”⁸² In response, DAB engaged in outreach with the financial sector and issued a statement attempting to halt the local currency’s depreciation.⁸³

93. The Taliban’s Economic Commission is led by the U.N.-sanctioned Mullah Abdul Ghani Baradar,⁸⁴ currently the Taliban’s Acting First Deputy Prime Minister, who is also a Taliban co-founder and a former deputy to Mullah Mohammed Omar, the former leader of the Taliban.⁸⁵

94. Disturbingly, a senior Taliban official led a financial coordination meeting at DAB. This is highly unusual; a Taliban leader never led a financial coordination meeting at DAB when I was the Treasury Department Financial Attaché in Kabul from 2018-2019 and such an occurrence likely would have resulted in severe practical, economic and diplomatic consequences for DAB and the former Afghan government. Specifically, on September 25, 2021 the Taliban Deputy Prime Minister, Mawlawi Abdul Salam Hanafi, chaired a meeting with Taliban DAB Acting Governor Idris at DAB, according to a DAB press release.⁸⁶ This Taliban-led meeting demonstrates that DAB is not independent but is rather controlled and directed by the Taliban.

⁸¹ James MacKenzie et al., *Afghan Central Bank Moves to Halt Currency Slid As Crisis Deepens*, Yahoo!Finance (Dec. 14, 2021), <https://finance.yahoo.com/news/afghanistan-central-bank-says-acting-094556696.html>.

⁸² *Id.*

⁸³ *Id.*

⁸⁴ Najibullah Lalzoy, *Mullah Baradar Assures Investors of Security in Afghanistan*, Khaama Press (Mar. 3, 2022), <https://www.khaama.com/mullah-baradar-assures-investors-of-security-in-afghanistan-5678756/>.

⁸⁵ U.N. Security Council, *Abdul Ghani Baradar Abdul Ahmad Turk*, <https://www.un.org/securitycouncil/sanctions/1988/materials/summaries/individual/abdul-ghani-baradar-abdul-ahmad-turk> (last visited Mar. 19, 2022).

⁸⁶ DAB, *Efforts for Improving and Strengthening the Banking Sector of the Country*, <https://dab.gov.af/efforts-improving-and-strengthening-banking-sector-country> (last visited Mar. 19, 2022).

95. According to the DAB press release, “A meeting aimed at coordinating the improvement and stability of the banking system of the country was held at the Headquarters of Da Afghanistan Bank. The meeting was chaired by Mr. Mawlawi Abdul Salam Hanafi, the Deputy Prime Minister of the Islamic Emirate of Afghanistan. Mr. Abdul Qahir (Mohammad Idrees) the Acting Governor of DAB, representatives of the commercial banks, and Chairman of the Afghanistan Banks Association also participated in the meeting.” A screenshot appears below from the DAB website showing Taliban Deputy Prime Minister Hanafi in the center, Taliban DAB Acting Governor Idris on the left, and a Taliban flag on the right.



September 25, 2021 – A meeting aimed at coordinating the improvement and stability of the banking system of the country was held at the Headquarters of Da Afghanistan Bank. The meeting was chaired by Mr. Mawlawi Abdul Salam Hanafi, the Deputy Prime Minister of the Islamic Emirate of Afghanistan. Mr. Abdul Qahir (Mohammad Idrees) the acting Governor of DAB, representatives of the commercial banks, and Chairman of the Afghanistan Banks Association also participated in the meeting.

G. Once Prohibited From Conducting Any Financial Transactions at DAB, the Taliban Now Controls All Financial Transactions Conducted by DAB

96. When DAB was controlled by the former Islamic Republic of Afghanistan, the Taliban was identified by DAB as a “Terrorist Group” and measures were taken against the Taliban, including placing it on a public list of entities prohibited from depositing or withdrawing U.S. dollar banknotes.⁸⁷ I have direct personal knowledge that publicly listing the Taliban as a “Terrorist Group” required substantial political will by DAB because of physical security threats made by the Taliban against DAB personnel.

97. An archived copy of FinTRACA’s website from August 13, 2021 contains a link to the United Nations Security Council Resolution 1988 Sanctions Committee List (described as UN Sanctions List 1988), which lists the Taliban’s current DAB First Deputy Governor Ahmad Zia Agha and Second Deputy Governor Abdul Qadeer Ahmad, also known as Abdul Qadeer Basir Abdul Baseer (Baseer).⁸⁸

98. Now, the Taliban controls every material decision DAB makes and every material financial transaction DAB conducts, and supervises the entire Afghan monetary and financial system, including Afghanistan’s private commercial banks. The Taliban also has the ability and authority to oversee Afghanistan’s *hawala* system—an alternative trust-based remittance and money-transfer system often used by terrorist organizations to transfer money without being recorded, traced, or monitored. Taken together, the Taliban’s consolidation of control over the Afghan financial and monetary systems presents a major terror financing risk. As explained

⁸⁷ DAB, *List of Entities Prohibited from Depositing or Withdrawing USD Banknotes*, <https://web.archive.org/web/20210815225011/http://www.fintraca.gov.af/ListOfProhibitedEntities.html>. The FinTRACA website is no longer available. This is a link for an archived version of the site from August 13, 2021.

⁸⁸ DAB, *UN Sanctions List*, <https://web.archive.org/web/20210815225012/http://www.fintraca.gov.af/UNList1988.html> (archived Aug. 13, 2021) and UN Security Council, *Sanctions*, <https://scsanctions.un.org/hhzvqen-taliban.html> (last visited Mar. 19, 2022).

further below, the Taliban can exploit its control over the Afghan banking and financial system through its control of DAB for malign purposes.

H. Current U.S. Officials Recognize that the Taliban Controls DAB

99. A number of current senior U.S. Government officials, in their official capacities, have made clear that the Taliban now controls DAB.

100. During sworn public testimony on October 19, 2021, before the U.S. Senate Committee on Banking, Housing, and Urban Affairs, U.S. Treasury Department Deputy Secretary Wally Adeyemo testified that the Taliban would not be allowed access to DAB foreign exchange reserves.⁸⁹ Adeyemo stated, “we believe that it’s essential that we maintain our sanctions against the Taliban but at the same time find ways for legitimate humanitarian assistance to get to the Afghan people. That’s exactly what we’re doing.”⁹⁰

101. A January 18, 2022 statement by U.S. Treasury Department Deputy Secretary Wally Adeyemo noted that the Taliban “continues to . . . drive essential technical experts and government officials—including those who work for Afghanistan’s central bank and financial institutions—out of the country.”⁹¹

102. At a public event hosted by the U.S. Institute for Peace (USIP) on February 15, 2022, U.S. State Department Deputy Assistant Secretary and Special Representative for Afghanistan Thomas West made several important statements about the current character of DAB. West confirmed that “a range of senior technocrats left Da Afghanistan Bank after the events of August and we saw certain functions atrophy or all together disappear. . . [W]e have

⁸⁹ Daphne Psaledakis et al., *Taliban Won’t be Allowed Access to Afghan Central Bank Reserves-Adeyemo* (Oct. 19, 2021), <https://www.reuters.com/world/asia-pacific/taliban-wont-be-allowed-access-afghan-central-bank-reserves-adeyemo-2021-10-19/>.

⁹⁰ *Id.*

⁹¹ U.S. Treas. Dep’t, Readout: *Deputy Secretary of the Treasury Wally Adeyemo’s Meeting with CEOs of NGOs Operating in Afghanistan* (Jan. 18, 2022), <https://home.treasury.gov/news/press-releases/jy0560>.

engaged in dialogue with these technocrats and Taliban leadership over steps that they can take to enhance functionality to bring in both third-party contractors to both audit as well as deliver capacity building assistance and also to enhance the central bank’s independence.”⁹²

103. I believe that this distinction between technocrats and Taliban leadership by the United States Government further demonstrates that the Taliban controls DAB. I also believe that the reference to central bank independence by Special Representative for Afghanistan West means that the central bank is not currently independent due to the Taliban’s control of it.

104. Regarding the approximately \$3.5 billion dollars in DAB assets that is now subject to an OFAC license, *see supra* para. 50, West described the potential creation of a “temporary finance mechanism” and said that the \$3.5 billion “represents the potential recapitalization of a *central bank that is recognized...*” (emphasis added).⁹³ West continued, “there will be professional Afghans involved in this process as we move ahead...and when I say Afghans, I do not mean the Taliban, to be very clear. I mean professional Afghans with deep experience in this space.”

105. These statements by Special Representative for Afghanistan West, the senior State Department official with responsibility for Afghanistan, make clear that the U.S. Government recognizes the Taliban’s control of DAB. West’s statements concerning capitalizing a new, independent central bank also make clear that the U.S. Government recognizes that the Taliban so deeply and completely controls DAB that the way forward may require a completely new central bank.

⁹² U.S. Inst. of Peace, *U.S. Engagement With Afghanistan After Six Months of Taliban Rule*, <https://www.usip.org/events/us-engagement-afghanistan-after-six-months-taliban-rule> (last visited Mar. 19, 2022).

⁹³ *Id.*

106. On February 25, 2022, OFAC issued a new general license, General License No. 20 Authorizing Transactions Involving Afghanistan or Governing Institutions in Afghanistan (General License 20), that authorizes certain transactions with DAB despite existing sanctions against the Taliban and individual members of the Taliban.⁹⁴

107. Concurrent with General License 20, OFAC issued Frequently Asked Question 995, which begins, “Does Afghanistan-related General License (GL) 20 authorize financial transfers to governing institutions in Afghanistan, including the Central Bank of Afghanistan (Da Afghanistan Bank, or DAB), or state-owned or -controlled companies and enterprises in Afghanistan?”⁹⁵

108. Frequently Asked Question 995 notes that General License 20 “authorizes financial transfers to or involving all governing institutions in Afghanistan—including but not limited to the DAB … provided there are no financial transfers to the Taliban … or any blocked individual who is in a leadership role of a governing institution in Afghanistan other than for the purpose of effecting the payment of taxes, fees, or import duties, or the purchase or receipt of permits, licenses, or public utility services….”⁹⁶

109. As a general matter, OFAC licenses are special measures taken by the Treasury Department to authorize transactions that otherwise would be prohibited under sanctions laws and regulations.⁹⁷

⁹⁴ Press Release, U.S. Treas. Dep’t, *U.S. Treasury Issues General License to Facilitate Economic Activity in Afghanistan* (Feb. 25, 2022), <https://home.treasury.gov/news/press-releases/jy0609>; U.S. Treas. Dep’t, OFAC, General License 20, *Authorizing Transactions Involving Afghanistan or Governing Institutions in Afghanistan*, https://home.treasury.gov/system/files/126/ct_gl20.pdf.

⁹⁵ U.S. Treas. Dep’t FAQs, *Afghanistan-Related Sanctions*, <https://home.treasury.gov/policy-issues/financial-sanctions/faqs/995> (last visited Mar. 19, 2022).

⁹⁶ *Id.*

⁹⁷ See U.S. Treas. Dep’t FAQs, *OFAC Licenses*, <https://home.treasury.gov/policy-issues/financial-sanctions/faqs/74> (last visited Mar. 19, 2022).

110. Based on my knowledge of the Treasury Department and OFAC, this General License 20 and accompanying Frequently Asked Question 995 provide further acknowledgment by the U.S. Government that the Taliban controls DAB, including through the placement of designated terrorists in leadership roles at DAB. Several factors inform my opinion, including the internal steps required by the Treasury Department to take such special measures, the specificity of the conditions for General License 20 as described in more detail by Frequently Asked Question 995, and the Treasury Department's specific identification of DAB.

I. Former U.S. Officials Recognize that the Taliban Controls DAB

111. A number of former U.S. Government officials have expressed the view that the Taliban now controls DAB.

112. Former senior Treasury Department officials have confirmed the Taliban's control over DAB. For example, on August 17, 2021, according to the Washington Post, Daniel Glaser, a former Assistant Secretary at the Treasury Department (and a senior official in the Treasury Department's Office of Terrorism and Financial Intelligence), advocated cutting Afghanistan off from the DAB funds located in the United States, because the Taliban could not be trusted to be "responsible custodians of Afghanistan's reserves."⁹⁸

113. On October 5, 2021, former Treasury Department and National Security Council official Adam Smith testified before the U.S. Senate Committee on Banking, Housing, and Urban Affairs that DAB "is now under the control of the Taliban."⁹⁹

⁹⁸ Jeff Stein, *Biden Administration Freezes Billions of Dollars in Afghan Reserves, Depriving Taliban of Cash*, Wash. Post (Aug. 17, 2021), <https://www.washingtonpost.com/us-policy/2021/08/17/treasury-taliban-money-afghanistan/>.

⁹⁹ *Afghanistan's Future: Assessing the National Security, Humanitarian, and Economic Implications of the Taliban Takeover*, *supra* note 30.

114. Former U.S. Treasury Department official Brian O’Toole stated, “Many of those with expertise and experience fled the country, and the Taliban does not have the capability or the proclivity to run a modern administrative state.”¹⁰⁰

J. DAB’s Social Media Posts Show That the Taliban Controls DAB

115. DAB’s social media accounts provide further evidence that the Taliban now controls DAB.

116. Images posted to DAB’s Twitter account (@AFGCentralBank) on February 19, 2022 display the white Taliban flag behind officials at DAB meetings. In addition to the Taliban flag, one of the images shows OFAC Specially Designated Global Terrorist and DAB First Deputy Governor Ahmad Zia Agha (also known as Noor Ahmad Agha) in attendance at the meeting.¹⁰¹



¹⁰⁰ Brian O’Toole, *supra* note 31.

¹⁰¹ DAB Twitter (Feb. 19, 2022), <https://twitter.com/AFGCentralbank/status/1494958204987617281>.

117. For reference, the U.S. Office of the Director of National Intelligence's (ODNI) National Counterterrorism Center (NCTC) includes a graphic depiction of the Taliban flag with the text "TALIBAN FLAG" below it on an unclassified public webpage that includes background information on the Taliban.¹⁰² A screenshot from the NCTC website is provided below.

The screenshot shows a web browser displaying the NCTC Counter Terrorism Guide. The URL in the address bar is dni.gov. The page has a dark header with the NCTC logo and navigation links for HOME, GROUPS, FTOs, METHOD & TACTICS, and TIMELINE. Below the header, a sub-header reads: "Afghanistan until October 2001, when they were routed from power by the US-led campaign against al-Qa'ida." A large red arrow points to a section of text that has been redacted with a black box. To the right of this redacted area is a portrait of Mullah Mohammad Omar with the caption "MULLAH MOHAMMAD OMAR (DECEASED)". Below the portrait is a small image of the Taliban flag with the text "TALIBAN FLAG" underneath it. The main text on the page discusses the Taliban's activities and attacks in Afghanistan, mentioning the death of Usama Bin Laden and the selection of Mullah Akhtar Mohammed Mansur as the new leader.

118. As shown below, as recently as March 10, 2022, the Taliban flag appeared in a tweet posted by DAB's official Twitter account.¹⁰³

¹⁰² NCTC, *Terrorist Groups*, supra note 20.

¹⁰³ DAB Twitter (Mar. 10, 2022), <https://twitter.com/AFGCentralbank/status/1501878055534481410>.

← Tweet

 Da Afghanistan Bank- Afghanistan
@AFGCentralbank ...

۱۴۰۰ کب ۱۹ مه - د افغانستان بانک د بانکي عملياتو د
لوي آمريت د آمر بناغلي عبدالواحد جبارخيل پر مشري د
گمرکونو د عمومي رياست له استارو سره د عوایدو د
راتولوني په چارو کې د همغږي غونډه جوړه شوه.
dab.gov.af/ps/%D8%AF-%DA%...

Translate Tweet



6:10 AM · Mar 10, 2022 · Twitter Web App

4 Retweets 77 Likes

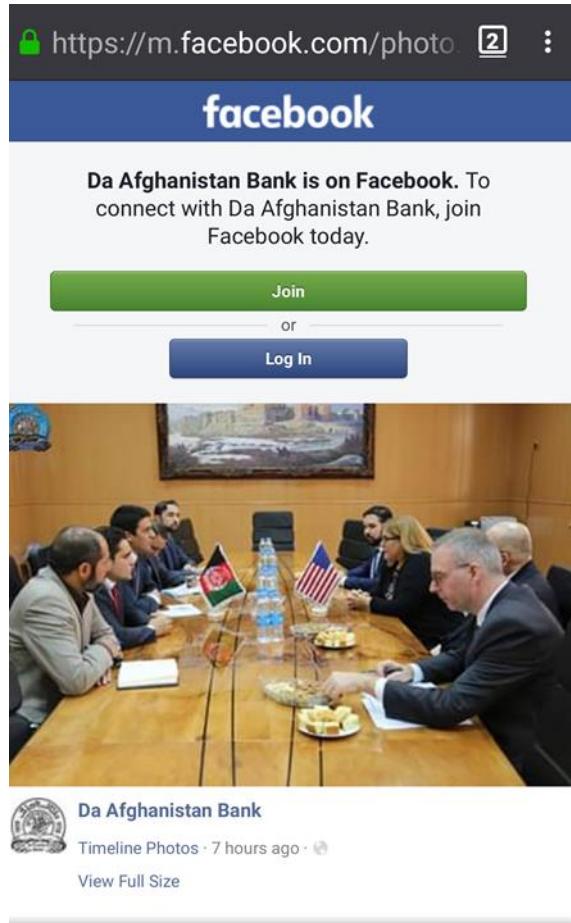
Reply Retweet Like Share

119. While I served as the U.S. Treasury Department Financial Attaché at the U.S. Embassy in Kabul, Afghanistan between 2018 and 2019, I never saw a Taliban flag during any of my seven visits to DAB facilities.

120. On August 23, 2021, DAB's first Twitter post after the Taliban's takeover shows what appears to be attendees making gestures for prayer. Given the Taliban's religious fundamentalism, this photograph suggests the bank has come under Taliban control. During my time as the U.S. Treasury Department Financial Attaché at the U.S. Embassy in Kabul, Afghanistan, I do not recall DAB leadership beginning any meeting with a required prayer.



121. DAB social media posts from prior to the Taliban takeover do not include the Taliban flag or religious gestures. For example, the following photograph was posted to DAB's Facebook page in October 2018 and shows a meeting between DAB officials and U.S. State and Treasury Department officials (including me).



122. On DAB's Twitter feed, the Taliban has posted images depicting DAB leadership and their delegation meeting with banking officials in other regions of Afghanistan outside of Kabul.

123. For instance, on March 12, 2022, DAB's official Twitter account posted pictures of a delegation headed by Idris and announcing that a DAB delegation led by Idris will visit all of the zones in the country where DAB has offices.¹⁰⁴

¹⁰⁴ DAB Twitter (Mar. 12, 2022), <https://twitter.com/AFGCentralbank/status/1502614526323314690>.

124. On March 14, 2022, DAB’s official Twitter account posted images of Idris and his delegation traveling to the northern region of Afghanistan to “supervise[] the affairs of this zone.”¹⁰⁵

125. I interpret this information from DAB’s official Twitter account to mean that the Taliban directs and controls all of DAB operations, not just in Kabul, but throughout all of Afghanistan.

K. DAB’s Webpage Demonstrates the Taliban’s Day-to-Day Control of DAB

126. Under the news section of the official DAB webpage (<https://dab.gov.af/all-news>), the Taliban DAB leadership post articles to provide updates on the bank’s activities. These articles highlight the involvement of senior Taliban officials in DAB’s day-to-day work.

127. For instance, on August 29, 2021, a mere two weeks after the Taliban takeover of Afghanistan, the Taliban’s DAB leadership held a meeting with high-ranking commercial bank officials, in which Acting Governor Idris chaired the meeting and spoke on behalf of DAB.¹⁰⁶

128. On September 15, 2021, Idris issued a statement addressing the people of Afghanistan, assuring the population that all commercial banks operating in the country are “completely secure” and further stating that “the banking sector is in a good condition.” He further communicated that all “banks, [foreign exchange dealers], and companies, including national merchants” within Afghanistan can “soon adjust their operations in a normal and regular manner” and “conduct their business affairs with complete surety.”¹⁰⁷

¹⁰⁵ DAB Twitter (Mar. 14, 2022), <https://twitter.com/AFGCentralbank/status/1503334035489230852>.

¹⁰⁶ DAB, *DAB Leadership Holds Meeting with High Ranking Officials of Commercial Banks*, <https://www.dab.gov.af/dab-leadership-holds-meeting-high-ranking-officials-commercial-banks> (last visited Mar. 19, 2022).

¹⁰⁷ DAB, *Message of Mr. Alhaj Abdul Qahir [Idris], the Acting Governor of Da Afghanistan Bank* (Sept. 15, 2021), <https://www.dab.gov.af/message-mr-alhaj-abdul-qahir-acting-governor-da-afghanistan-bank>.

129. On September 25, 2021, the Taliban Deputy Prime Minister, Mr. Mawlawi Abdul Salam Hanafi, Idris, representatives of commercial banks, the chairman of the Afghanistan Banks Association, the Minister of Commerce and Industry, the Deputy Minister of Finance, and the advisor to the Minister of Finance met at the DAB headquarters to coordinate the improvement and stability of the banking system in Afghanistan. The U.N.-sanctioned Mawlawi Abdul Salam Hanafi is a senior Taliban leader.¹⁰⁸

130. On September 29, 2021, the SDGT Taliban Deputy Governors of DAB, the SDGT Minister of Finance,¹⁰⁹ the Minister of Commerce and Industry, and directors of relevant branches of DAB met at DAB headquarters to discuss and approve a comprehensive plan prepared by DAB's leadership.¹¹⁰

131. On December 12, 2021, DAB's Taliban-appointed leadership issued a statement to acknowledge a third shipment of cash shipments to the private Afghanistan International Bank (AIB).¹¹¹

132. On February 12, 2022, DAB's Taliban leadership released a press release criticizing President Biden's Executive Order to Preserve Certain Afghanistan Central Bank Assets for the People of Afghanistan and alleging that the Biden Administration allocated assets for "irrelevant purposes," thereby creating an injustice. The press release stated that the Taliban-

¹⁰⁸ *Efforts for Improving and Strengthening the Banking Sector of the Country*, *supra* note 86.

¹⁰⁹ See, e.g. Saeed Shah, *Taliban Looks to Private Sector to Save Afghanistan's Economy From Collapse*, Wall St.J. (Feb. 20, 2022), available at <https://www.wsj.com/articles/taliban-looks-to-private-sector-to-save-afghanistans-economy-from-collapse-11645353000> ("The finance minister, who handled the group's money when fighting the insurgency, is under international terrorism sanctions, as are many other top officials such as the interior minister."); and Greg Jaffe, *Afghanistan's last finance minister turned Uber driver ponders his country's collapse and his life*, Wash. Post (March 18, 2022), available at <https://www.washingtonpost.com/nation/2022/03/18/afghanistans-last-finance-minister-now-dc-uber-driver-ponders-what-went-wrong/> ("Seven months later, [the former Finance Minister's] position of finance minister was held by a childhood friend of Taliban founder Mohammad Omar, who had made a name for himself during the war by raising money for suicide bombers in Kandahar.").

¹¹⁰ DAB, *Third Meeting on TTs* (Sept. 29, 2021), <https://www.dab.gov.af/third-meeting-tts>.

¹¹¹ DAB, *Third USD Shipment Reached Afghanistan and Delivered to the AIB* (Dec. 12, 2021), <https://www.dab.gov.af/third-usd-shipment-reached-afghanistan-and-delivered-aib>.

controlled DAB will never accept the reserves' disbursement under the name of "humanitarian assistance," and demanded the reversal of the decision, ostensibly requesting that the Biden Administration release the reserves to the Taliban-controlled DAB.¹¹²

133. On February 23, 2022, Acting Governor Idris met with the UN Special Representative for Afghanistan to discuss financial and banking issues.¹¹³

134. On February 26, 2022, DAB's Taliban leadership "extended its gratitude and appreciation to the U.S. Department of Treasury for issuing [OFAC General License 20]."¹¹⁴

135. On March 8, 2022, DAB held a workshop for mass media representatives, in which information pertaining to the goals, duties and overall monetary policies of the bank was delivered by, among others, Acting Governor Idris.¹¹⁵ Based on my review of video footage of the meeting uploaded to YouTube and posted on DAB's website, I believe that sanctioned Taliban DAB officials Ahmad Zia Agha and Abdul Qadeer Ahmad (Baseer) were in attendance as well.

L. DAB Does Not Operate Independently From the Taliban

136. Ideally, central banks operate independently from a country's political leadership. This concept of central bank independence is designed to insulate central bank decision making from political interference, given the politically unpopular decisions that central banks may have

¹¹² Press Release, DAB, *On the Decision of United States of America Regarding the Foreign Exchange Reserves of Afghanistan* (Feb. 2022), <https://www.dab.gov.af/press-release-da-afghanistan-bank-decision-united-states-america-regarding-foreign-exchange>.

¹¹³ DAB, *DAB Governor Meets with the UN Special Representative for Afghanistan* (Feb. 2022), <https://www.dab.gov.af/dab-governor-meets-un-special-representative-afghanistan>.

¹¹⁴ DAB, *The U.S. Department of Treasury Issued General License 20 to Facilitate Economic Activity in Afghanistan* (Feb. 26, 2022), <https://www.dab.gov.af/us-department-treasury-issued-general-license-20-facilitate-economic-activity-afghanistan>.

¹¹⁵ DAB, *DAB Held a Workshop for Mass Media Representatives* (Mar. 2022), <https://www.dab.gov.af/dab-held-workshop-mass-media-representatives>. A link to a video describing the event is available at www.dab.gov.af/index.php/media-gallery, and the video itself is available at www.youtube.com/watch?v=EtSc4sVoSGs.

to make to fulfill their monetary policy and other mandates. Concepts of central bank independence are dynamic. While I worked with DAB leadership, DAB operated with sufficient independence from the former Islamic Republic of Afghanistan's control as to not create concerns from the U.S. Treasury Department.

137. Based on information communicated to me by people inside and outside of Afghanistan, I understand that DAB is now operating under the Taliban's direct operational control. Recognizing this reality, many, myself included, have written about the need for the United States and the international community to "appoint[] independent, internationally recognized technocrats to lead and operate DAB and FinTRACA, as opposed to Taliban loyalists who lack requisite education or experience."¹¹⁶

138. Other experts have also confirmed that DAB is not currently independent of the Taliban. For example,

a. In sworn testimony before the U.S. Senate Foreign Relations Committee's Subcommittee on Near East, South Asia, and Counterterrorism, Graeme Smith of the International Crisis Group testified on February 9, 2022 that "Afghanistan needs an entity to serve the functions of a central bank, holding U.S. dollar currency auctions, printing local currency, and regulating the banking sector." Smith called for "reviving Da Afghanistan Bank" through foreign technical assistance and "ring-fencing" the bank "*to keep it independent from the Taliban-controlled government.*"¹¹⁷

¹¹⁶ Zerden, *supra* note 33.

¹¹⁷ Graeme Smith, *Afghanistan: The Humanitarian Crisis and U.S. Response*, Int'l Crisis Grp. (Feb. 10, 2022), <https://www.crisisgroup.org/asia/south-asia/afghanistan/afghanistan-humanitarian-crisis-and-us-response> (emphasis added).

b. Dr. William Byrd of the U.S. Institute of Peace wrote on January 4, 2022 that “[t]he Taliban need to restore capacity and a degree of independence in the Ministry of Finance and DAB and appoint competent, experienced technocrats to key positions.”¹¹⁸

c. U.S. legislative leaders have also recognized the need to remove the Taliban’s control over DAB. On February 11, 2022, a group of 27 Members of Congress called for the United States to “support an independent and technocratic Afghan central bank free from Taliban interference.”¹¹⁹

d. On December 21, 2021, a bipartisan group of Members of Congress noted that “Afghanistan will need an entity to serve as a central bank. . . . The Biden administration should signal openness to designating a private Afghan or third-country bank to facilitate dollar auctions not only to stop a meltdown but to enable ordinary Afghans to get back on their feet without having to depend on the Taliban.”¹²⁰

e. On February 15, 2022, the U.S. State Department Special Representative for Afghanistan Thomas West called for DAB’s “professionalization” and “independence.”¹²¹

f. On January 18, 2022, Nazir Kabiri, an Afghan academic, describing the situation in Afghanistan generally, noted that the remaining non-Taliban officials in government

¹¹⁸ William Byrd, *How to Mitigate Afghanistan’s Economic and Humanitarian Crises*, U.S. Inst. of Peace (Jan. 4, 2022), <https://www.usip.org/publications/2022/01/how-mitigate-afghanistans-economic-and-humanitarian-crises>.

¹¹⁹ Press Release, Merkley, Connolly Lead Bicameral Push to Help Afghans at Risk of Starvation (Feb. 11, 2022), <https://www.merkley.senate.gov/news/press-releases/merkley-connolly-lead-bicameral-push-to-help-afghans-at-risk-of-starvation>.

¹²⁰ Press Release, Crow, Malinowski, Meijer Make Bipartisan Push for Humanitarian Aid for Afghanistan (Dec. 21, 2021), <https://crow.house.gov/media/press-releases/crow-malinowski-meijer-make-bipartisan-push-humanitarian-aid-afghanistan>.

¹²¹ Twitter, Graeme Smith (Feb. 2022), <https://twitter.com/smithkabul/status/1493970324764995586?s=20&t=RdiTmXPqQfE1O6mSXuxLHQ>.

institutions “all have Taliban ministers over them, so they have no authority to make decisions.”¹²²

139. Furthermore, DAB currently operates at the direction of the Taliban’s Council of Ministers and the Taliban’s Economic Commission.¹²³ The Taliban Economic Commission is led by the U.N.-sanctioned Mullah Baradar, the Taliban’s Acting First Deputy Prime Minister, a Taliban co-founder, and a former deputy to Mullah Mohammed Omar.¹²⁴ On September 25, 2021 the Taliban Deputy Prime Minister, Mawlawi Abdul Salam Hanafi, individually sanctioned by the U.N. for narcotics trafficking, chaired a meeting with Taliban DAB Acting Governor Idris at DAB, according to a DAB press release.¹²⁵ This Taliban-led meeting at DAB demonstrates the absence of DAB independence and its control and direction by the Taliban.

M. Public and Private Organizations Are Bypassing DAB Because It Is Controlled By The Taliban

140. The private sector and many international non-governmental organizations are attempting to bypass DAB because it is controlled by the Taliban. Most prominently, the United Nations has been shipping hundreds of millions of U.S. dollars as banknotes into Afghanistan since late 2021, but is transferring these funds to a private bank, Afghanistan International Bank, rather than DAB. Such an arrangement is highly unusual because DAB previously received U.S. dollar banknote shipments directly before August 2021, a program which ceased in order to prevent the Taliban from accessing the funds.¹²⁶ The tweet below from DAB’s account confirms

¹²² Pamela Constable, *Afghanistan Desperately Needs Aid*, Wash. Post (Jan. 18, 2022), <https://www.washingtonpost.com/world/2022/01/18/afghanistan-aid-finance/>.

¹²³ MacKenzie, *supra* note 81.

¹²⁴ Lalzoy, *supra* note 84.

¹²⁵ *Efforts for Improving and Strengthening the Banking Sector of the Country*, *supra* note 86.

¹²⁶ Kate Davidson et al., *U.S. Halted Dollar Shipments to Afghanistan to Keep Cash Out of Taliban’s Hands*, Wall. St. J. (Aug. 17, 2021), <https://www.wsj.com/articles/u-s-halted-dollar-shipments-to-afghanistan-to-keep-cash-out-of-talibans-hands-11629233621>.

these more recent transfers. (Note: The automated Google Translate mistranslates Afghanistan International Bank (AIB) as “World Bank”.)



141. Below are additional examples of international and nongovernmental organizations attempting to avoid engaging with the Taliban-controlled DAB as they carry out financial activity that would typically occur through a central bank.

a. The United Nations Office for Project Services is working to facilitate humanitarian relief into Afghanistan. It has been working on a currency swap facility that would involve the support of the World Bank, the United Nations Office for the Coordination of

Humanitarian Affairs (OCHA), and others to bypass “DAB and the Afghan Government, but connect[] to a number of companies to give access to [Afghan currency].”¹²⁷

b. Some NGOs employ a strategy involving an individual or company releasing funds in Afghanistan in return for reimbursement in the United Kingdom, Iraq, or elsewhere in the world.¹²⁸

c. Some NGOs use strategies that avoid involving Afghan individuals or companies directly in the transaction, but still provide payment in Afghanistan using *hawala* or other funding mechanisms available within Afghanistan.¹²⁹

d. Some NGOs and private sector actors are running their own “humanitarian swap facilities” for humanitarian actors to avoid exposure to DAB or the wider Afghan Government.¹³⁰

142. Financial institutions around the world are avoiding interacting with DAB. While these actions are in part motivated by sanctions compliance concerns, financial institutions also have independent risk considerations that factor into broader money laundering, terrorism financing, and narcotrafficking controls.¹³¹

143. Based on the totality of information currently available, it is my expert opinion that DAB is controlled completely by the Taliban. As the U.S. Government and observers

¹²⁷ Norwegian Refugee Council, *Life and Death: NGO Access to Financial Services in Afghanistan* at 33 (Jan. 2022), https://reliefweb.int/sites/reliefweb.int/files/resources/life-and-death_0.pdf.

¹²⁸ *Id.*

¹²⁹ *Id.*

¹³⁰ *Id.*

¹³¹ *Afghanistan’s Future: Assessing the National Security, Humanitarian, and Economic Implications of the Taliban Takeover* at 4, *supra* note 30; Jacob Kurtzer, *Assessing Economic Crisis Response Options for Afghanistan*, Center for Strategic and International Studies (Feb. 9, 2022), <https://www.csis.org/analysis/assessing-economic-crisis-response-options-afghanistan>.

around the world have noted, DAB is not currently serving the function of an independent central bank. It is, instead, being actively directed by the Taliban.

IV. DAB is a Means Through Which the Taliban Accomplishes Material Functions and DAB Provides Material Support to the Taliban

144. In addition to controlling it, the Taliban also uses DAB as a means by which to accomplish several functions that are material to its role as a terrorist organization. The same evidence shows that DAB is providing material support to the Taliban. In fact, one cannot overstate the potential consequences and international harm that may arise from a designated, committed terrorist organization controlling the central bank of a state.

145. In my expert opinion, the Taliban is using its control over DAB for its material benefit in at least several key ways: 1) support for the Taliban’s efforts to generate hundreds of millions of dollars in revenue from the illicit narcotics trade, revenue that it can in turn use to carry out its agenda; 2) exploitation of access to sensitive financial intelligence information such as Suspicious Activity Reports (“SARs”) and dossiers compiled by FinTRACA, DAB’s Financial Intelligence Unit; 3) exploitation of access to sensitive, nonpublic financial supervisory information and supervisory capabilities; and 4) enhanced, unregulated use of the high-risk *hawala* sector for terrorism financing, narcotrafficking, money laundering, and other illicit purposes.

A. Control of DAB Materially Supports the Taliban’s Revenues from Illicit Narcotics

146. The Taliban is using its control over DAB to support its efforts to generate hundreds of millions of dollars in revenue from the illicit narcotics trade.

147. As identified by the United Nations, the drug trade is the “largest single source of income” for the Taliban as of June 2021.¹³² The United Nations found that “[t]he primary sources of Taliban financing remain criminal activities, including drug trafficking and opium poppy production, extortion, kidnapping for ransom, mineral exploitation and revenues from tax collection in areas under Taliban control or influence.”¹³³

148. Afghanistan is the largest producer of opium in the world, accounting for at least 85 percent of global production as of November 2021, according to the United Nations.¹³⁴

149. For years, the Taliban has benefitted from taxation of narcotics production and trafficking.

150. According to the U.S. Government, “Following the Taliban takeover, there is at present no indication of an existing mechanism for investigating, prosecuting, and adjudicating narcotics trafficking.”¹³⁵

151. According to the U.S. Government, “The Taliban have not announced the adoption of any purported anti-money laundering/combating the financing of terrorism (AML/CFT) laws and regulations.”¹³⁶

152. I am not aware of any other terrorist group whose “single largest source of income” is the illicit drug trade and who has access to central bank functionality to support its revenue generation from the illicit drug trade.

¹³² U.N. S.C., S/2021/486, *Twelfth Report of the Analytical Support and Sanctions Monitoring Team* <https://www.un.org/securitycouncil/sanctions/1988/monitoring-team/reports>.

¹³³ *Id.* at 14, 22.

¹³⁴ UNODC, *Afghan Opium Supply 8 Out of 10 Opiate Users Worldwide, UNODC finds, as Experts meet in Vienna to Combat Illicit Trafficking* (Nov. 16, 2021), <https://www.unodc.org/unodc/en/frontpage/2021/November/afghan-opiates-supply-8-out-of-10-opiate-users-worldwide--unodc-finds--as-experts-meet-in-vienna-to-combat-illicit-trafficking.html>.

¹³⁵ *International Narcotics Control Strategy Report: Money Laundering* at 33, *supra* note 29.

¹³⁶ *Id.* at 32.

153. Based on my experience in Afghanistan between 2018 and 2019, DAB under the former Islamic Republic of Afghanistan had sufficient political will and technical capabilities to address AML/CFT risks, including those risks associated with the Taliban and its revenue generation through the illegal narcotics trade. According to the U.S. Government, this included “a comprehensive AML law with significant provisions on the criminalization of money laundering, customer due diligence (CDD) and suspicious activity reporting (SAR) provisions, and asset seizure and forfeiture authority. In 2016, DAB issued a regulation pursuant to Article 69 of the *Anti-Money Laundering and Proceeds of Crime Law* requiring all financial institutions to develop effective frameworks, preventive measures, systems, controls, and practices to manage their potential money laundering/terrorist financing risks” and established FinTRACA in 2014.¹³⁷

154. These efforts taken by DAB under the former Islamic Republic of Afghanistan helped to address money laundering and terrorism financing risks in Afghanistan, including the Taliban’s terrorism financing efforts involving revenue from illegal narcotics.

155. It is my expert opinion that unfettered control of a central bank allows the Taliban to use central bank capabilities (including the decommissioning of those capabilities) to further its financing of terrorism through illicit narcotics trafficking operations by supercharging the Taliban’s ability to engage in money laundering to obfuscate the sources of illicit proceeds. The fact that the Taliban has wrested control of DAB from its prior leadership—leadership that was dedicated to upholding international AML/CFT standards—means that prior checks on the Taliban’s illicit activities are no longer in place.

¹³⁷ *Id.* at 33.

B. Control of DAB Provides Access to Sensitive Financial Intelligence Information

156. Through its control over DAB, the Taliban has gained access to sensitive financial intelligence information maintained at the bank and control over the entire Afghan banking system. Given how quickly the Afghan government collapsed, it is highly unlikely that DAB employees would have been able to take steps to prevent the Taliban from accessing the records. Among other things, the Taliban may now have access to the following kinds of sensitive financial information it can weaponize against those it seeks to harm in Afghanistan and abroad:

a. **Suspicious Activity Reports (“SARs”).** Through the Afghan Financial Intelligence Unit, FinTRACA, DAB received, investigated, and maintained suspicious activity reports. Suspicious activity reports (“SARs”) are reports that many governments obligate financial institutions to file whenever they identify transactions or other activities that are suspicious for money-laundering, terrorism financing, or other illicit activities.¹³⁸ While SARs are not formal accusations, they do contain information that is so sensitive and confidential that banks submitting them are generally prohibited from confirming their existence. Therefore, the risks associated with misuse is extraordinarily high.

- 1) The Taliban could, for instance, use SARs about former Afghan officials suspected of financial improprieties like embezzlement to justify charging, imprisoning, torturing, or executing them.¹³⁹
- 2) Since many filed SARs likely involve Taliban activity for terrorism financing and money laundering, the Taliban could also use SAR

¹³⁸ Afghan authorities and certain publications refer to SARs as “Suspicious Transaction Reports,” or STRs, but the term SARs is used in the United States.

¹³⁹ Valentina Pasquali, *FinTRACA, Afghanistan’s Financial Intelligence Unit, Faces Bleak Future*, ACAMS (Sept. 13, 2021), <https://www.moneylaundering.com/news/fintraca-afghanistans-financial-intelligence-unit-faces-bleak-future/>.

data to retaliate against (1) financial industry compliance officials who compiled these reports in the ordinary course of their work and (2) confidential sources who provided derogatory information about the Taliban, Al Qaeda, the Haqqani Network, or others to financial industry compliance officials.

- 3) More troubling, the Taliban-controlled DAB, through FinTRACA, is still the repository for SARs; financial institutions in Afghanistan are still obligated to file SARs, including against suspected Taliban terrorism financing activities, to the Taliban-controlled DAB. This reality severely undermines the intent and purpose of the SAR filing regime to confidentially identify suspicious financial activity for action by competent and credible regulatory authorities.
- 4) Here, the Taliban materially benefits from DAB's access to SAR information. In fact, almost every other jurisdiction in the world goes to great lengths to protect the content of confidential SAR information and the integrity of the SAR process from terrorist groups like the Taliban.

b. **FinTRACA Reports.** FinTRACA is the Financial Transactions and Reports Analysis Center of Afghanistan and was created in 2014 as the Financial Intelligence Unit for Afghanistan. It is the unit of DAB responsible for identifying and investigating financial improprieties like those giving rise to SARs. Many different parts of the former Afghan government, the banking system, and foreign partners provided sensitive information to

FinTRACA. FinTRACA also had access to the Afghan government's information and databases and worked closely with law enforcement to investigate and prosecute illegal activity.

FinTRACA was established to deny the use of Afghanistan's financial system to those who were trying to use the system to obtain, use, or transfer funds from illegal activities or for terrorist purposes, including the Taliban and Al Qaeda. FinTRACA also interfaced with Afghanistan's commercial banks and *hawala* (money services business) sector (discussed in greater detail, below) to enhance Afghanistan's national anti-money laundering and countering the financing of terrorism (AML/CFT) capabilities.

- 1) The information possessed by FinTRACA was extremely sensitive and included information about the sources who provided the information. Ironically, the Taliban, a Specially Designated Global Terrorist, now controls the financial investigative system that was created to prevent it and other malign actors from using Afghanistan's financial system to finance, and provide material support for, terrorist activities. Furthermore, the purposes of certain FinTRACA reports were to provide lead generation and evidentiary packets of financial information as part of referrals to competent law enforcement agencies in Afghanistan to action through criminal prosecutorial authorities; now, these law enforcement agencies are either disbanded or also controlled by the Taliban.
- 2) Therefore, the financial regulatory support nexus to law enforcement is existentially compromised and cannot fulfill its

intended function, especially to address terrorism financing and other criminal activity associated with the Taliban. The Taliban is now able to use these DAB assets created to fight the Taliban to advance its own terrorist and criminal activities instead.

- 3) This view appears consistent with the position taken by the Egmont Group of Financial Intelligence Units. The Egmont Group suspended DAB's FinTRACA from the Egmont Secure Web, a secure communications platform among Financial Intelligence Units around the world. The Egmont Group released a statement that, "Taking into consideration the situation in Afghanistan, the Egmont Group disconnected the Financial Transactions and Reports Analysis Center of Afghanistan (FinTRACA) from the Egmont Secure Web (ESW) on Sunday, August 15th, 2021. The Egmont Group stands in solidarity with our colleagues at FinTRACA and hopes that they and their families are safe." The Egmont Group of Financial Intelligence Units is an intergovernmental organization that "was created to provide [Financial Intelligence Units] around the world a forum to exchange information confidentially to combat Money-Laundering, the Financing of Terrorism, and other predicate offenses."

157. According to the U.S. Government, because of the Taliban’s control over DAB, “FinTRACA currently is non-operational.”¹⁴⁰

158. According to the U.S. Government in the same March 2022 report, “DAB and FinTRACA may experience major changes as Taliban representatives now oversee these organizations that previously investigated Taliban finances and coordinated responses through law enforcement and other channels.”¹⁴¹

159. In sum, the Taliban’s access to sensitive financial information through DAB is enabling it to carry out key material functions, including gaining advantages over its adversaries, supporting terrorism and crime, and further extending its control over Afghanistan.

C. Control of DAB Provides Access to Sensitive, Nonpublic Financial Supervisory Information and Enables the Abuse of Supervisory Capabilities

160. Through its control over DAB, the Taliban now controls the entire Afghan banking and financial services ecosystem. Among other things, DAB developed and maintained sensitive, nonpublic information about Afghanistan’s commercial banks and *hawala* (money services business) sector as part of its supervisory role over them. Such information likely would include likely work product related to examinations of the commercial banks and *hawalas* for macroprudential purposes such as institutional safety and soundness. It would also include critically important information concerning anti-money laundering and countering the financing of terrorism (AML/CFT) matters, like evaluations of AML/CFT policies and procedures, capabilities, and deficiencies at regulated financial institutions throughout Afghanistan. I have personal knowledge that DAB’s Supervision Department before August 2021 dedicated an office and staff to AML/CFT supervision. I have personal knowledge that the head of that office is no

¹⁴⁰ International Narcotics Control Strategy Report: Money Laundering at 33, *supra* note 29.

¹⁴¹ *Id.*

longer in the jurisdiction of Afghanistan. And, Agha, a person sanctioned by multiple jurisdictions for, among other things, his terrorist financing activity on behalf of the Taliban, is now in charge of AML/CFT functions at DAB.¹⁴²

161. With control over DAB and supervisory responsibility over all Afghan banks and the *hawala* sector, the Taliban can use DAB, the commercial banks, and the *hawala* sector to further its terrorist purposes, including facilitating the financing of terrorism and revenue generation through the illicit narcotics trade, by identifying and then exploiting weaknesses in AML/CFT procedures at banks and *hawalas* both inside and outside Afghanistan, as well as to abuse DAB itself as a central bank in charge of AML/CFT and other supervisory obligations.

162. A Taliban-controlled DAB, for instance, can easily conceal the true nature and purpose of Al Qaeda transactions intended to finance terrorist attacks around the world and then provide cover when foreign banks or other international parties conduct their due diligence investigations into suspicious transactions. A Taliban-controlled DAB can perform the same function of concealment for itself as a terrorist group, for its foreign sponsors such as Pakistan and wealthy individual donors, and for transnational criminal organizations that the Taliban may partner with to profit from drug trafficking.

163. A Taliban-controlled DAB can also engage in diversion of international assistance, even when that aid goes through commercial banks.¹⁴³

164. The U.S. Government assessed in March 2022 that “DAB and FinTRACA may experience major changes as Taliban representatives now oversee these organizations that

¹⁴² See Talley, *supra* note 48.

¹⁴³ Kurtzer, *supra* note 131.

previously investigated Taliban finances and coordinated responses through law enforcement and other channels.”¹⁴⁴

165. The Financial Action Task Force (FATF), the leading intergovernmental organization through which governments cooperate on AML/CFT issues, identified the heightened risk of money laundering and terrorist financing in light of the Taliban’s takeover.¹⁴⁵

166. According to the U.S. Government, “The Taliban have not announced the adoption of any purported anti-money laundering/combating the financing of terrorism (AML/CFT) laws and regulations.”¹⁴⁶

167. It is my expert opinion that a Taliban-controlled DAB, led by Specially Designated Global Terrorists in the senior most leadership positions, hollowed out by the departure of non-Taliban leadership and technical staff, without an operational Financial Intelligence Unit, and lacking any AML/CFT laws and regulations cannot credibly supervise AML/CFT in Afghanistan. Rather, a Taliban-controlled DAB will serve the Taliban’s own purposes in facilitating narcotrafficking and the financing of terrorist groups such as the Taliban itself and Al Qaeda. An Afghanistan stripped of proper financial supervision materially benefits the Taliban and allows the Taliban to openly implement its own aims, particularly in the realm of terrorist financing.

D. Control of DAB Results in a Lack of Meaningful Oversight for the High-Risk *Hawala* Sector, Which the Taliban Exploits

168. The Taliban-controlled DAB now has full control over the historically under-regulated and perennially high-risk *hawala* sector, which the Taliban uses to fund itself. By

¹⁴⁴ *International Narcotics Control Strategy Report: Money Laundering* at 33, *supra* note 29.

¹⁴⁵ *Outcomes FATF Plenary*, *supra* note 32; and *Public Statement on the Situation in Afghanistan*, *supra* note 30.

¹⁴⁶ *International Narcotics Control Strategy Report: Money Laundering* at 32, *supra* note 29.

ensuring that the *hawala* sector goes largely unregulated, the Taliban can preserve an environment favorable to the narcotrafficking and illicit finance on which it relies.

169. *Hawala* is a “centuries-old informal money exchange system that provides for both domestic and international transfers.”¹⁴⁷ According to *The Economist*, “regulators around the world hate the system, because of its opacity and its role in helping to fund terrorism.”¹⁴⁸

170. According to the U.S. Government, “during the Taliban rule (1996-2001), Afghanistan’s financial system relied heavily on hawala. The Taliban [is] unlikely to enforce international sanctions and regulate the hawala money transfer system.”¹⁴⁹ The U.S. Government further stated, “With a quarter of Afghanistan’s commercial banks state-owned, it is unclear the extent to which the Taliban will enforce AML/CFT rules, including administration of the hawala sector.”¹⁵⁰ The report continued, “With many Afghans conducting financial transactions outside of the formal banking system, irregular cash transactions and transfers through hawaladars [hawalas] form the nexus of Afghanistan’s money laundering problems.”¹⁵¹

171. The U.S. Treasury Department published a report entitled “The Hawala Alternative Remittance System and Its Role in Money Laundering” and found that hawala features and capabilities include cost effectiveness, efficiency, reliability, lack of bureaucracy, lack of a paper trail, and [facilitating] tax evasion.¹⁵²

¹⁴⁷ Zerden, *supra* note 33.

¹⁴⁸ The Economist, *Hawala Traders are Being Squeezed by Regulators and Covid-19* (Nov. 28, 2020 ed.), <https://www.economist.com/finance-and-economics/2020/11/26/hawala-traders-are-being-squeezed-by-regulators-and-covid-19>.

¹⁴⁹ *International Narcotics Control Strategy Report: Money Laundering* at 32, *supra* note 29.

¹⁵⁰ *Id.* at 33.

¹⁵¹ *Id.* at 32.

¹⁵² Patrick M. Jost et al., *The Hawala Alternative Remittance System and its Role in Money Laundering*, FinCen, <https://www.treasury.gov/resource-center/terrorist-illicit-finance/documents/fincen-hawala-rpt.pdf>.

172. The intergovernmental standard setting body for money laundering and terrorism financing, the Financial Action Task Force (FATF), studied hawalas and found that, “As with other sectors, the less regulated and supervised the hawala and other similar service providers market is, the greater the money laundering and terrorist financing vulnerability. Completely unregulated operators are particularly vulnerable to Money Laundering/Terrorist Financing risks because they permit funds to be sent with little or no [Customer Due Diligence] requirements, allowing a money launderer or terrorist financier to freely send funds with limited risk of being identified.”¹⁵³ It is my expert opinion that a hawala sector supervised by the Taliban-controlled DAB cannot address AML/CFT vulnerabilities in Afghanistan and in fact furthers the Taliban’s own purposes by facilitating narcotrafficking and other forms of illicit finance through the *hawala* system.

173. Under the former Islamic Republic of Afghanistan, the *hawala* industry was lightly regulated. The U.S. Government found in March 2021 that hawala networks in Afghanistan were “often used to circumvent government oversight.”¹⁵⁴ Afghan bankers frequently complained to me that the hawala system benefited from less regulation and supervisory scrutiny from DAB and FinTRACA. I worked with U.S. Government, Afghan government, and other partners to address supervisory gaps in the *hawala* system, particularly to improve AML/CFT controls. Yet substantial work remained. An April 2020 DAB report “identifie[d] a multitude of significant deficiencies and conclude[d] that, overall [hawala] compliance with applicable laws and regulations is weak.”¹⁵⁵ However, it is my expert opinion

¹⁵³ FATF, *The Role of Hawala and Other Similar Service Providers in Money Laundering and Terrorist Financing* at 26 (Oct. 2013), <https://www.fatf-gafi.org/media/fatf/documents/reports/Role-of-hawala-and-similar-in-ml-tf.pdf>.

¹⁵⁴ U.S. State Dep’t, *International Narcotics Control Strategy Report: Money Laundering* at 32-33 (Mar. 2021), https://www.state.gov/wp-content/uploads/2021/02/21-00620-INLSR-Vol2_Report-FINAL.pdf.

¹⁵⁵ *Id.* at 36.

that DAB under the former Islamic Republic of Afghanistan attempted in good faith to improve supervision of the hawala sector, including with respect to AML/CFT.

174. Based in part on my experience in Afghanistan working with DAB to develop systems for regulating and monitoring the *hawala* system, it is my expert opinion that the Taliban uses the *hawala* system as its “primary financial lifeline.”¹⁵⁶ Public reports describe the use of *hawala* to move money for Taliban-linked militants. The U.S. Government, the United Nations, and the former Afghan government took actions to disrupt financial activity through the *hawala* system that benefitted the Taliban.¹⁵⁷

175. Driven by the loss of technical personnel at DAB and FinTRACA due to the Taliban’s control of DAB, as well as the Taliban’s reliance on the *hawala* system for illicit financial activities such as narcotrafficking and terrorism financing, it is my expert opinion that the Taliban-controlled DAB will not, and cannot, effectively enforce adequate AML/CFT oversight over the *hawala* system. Instead, it will use the *hawala* system, or knowingly allow the *hawala* system to be used, to materially support narcotrafficking, terrorist financing, and other Taliban objectives, much like it did in the years before the 9/11 terror attacks.

176. It is my expert opinion that the Taliban benefits materially from an unregulated *hawala* system that lacks effective AML/CFT oversight. Effective AML/CFT oversight would seek to deny the Taliban access to the *hawala* system. The Taliban’s control of DAB allows it to exploit a *hawala* system which poses heightened terrorism financing risks to the Afghan and international financial systems. As the U.S. Government assessed in March 2022, “The Taliban

¹⁵⁶ Zerden, *supra* note 33.

¹⁵⁷ *Id.*

are unlikely to enforce international sanctions and regulate the hawala money transfer system.”¹⁵⁸

177. According to the U.S. Government, “The Taliban have not announced the adoption of any purported anti-money laundering/combating the financing of terrorism (AML/CFT) laws and regulations.”¹⁵⁹

178. It is my expert opinion that the Taliban’s control of DAB enables an unsupervised or under-supervised *hawala* sector which “creates substantial vulnerabilities that could facilitate billions of dollars in terrorism financing, narcotrafficking, and tax evasion, and turn Afghanistan into an even larger money laundering hub with disastrous consequences for both crime and terrorism.”¹⁶⁰

V. Conclusion

179. Based on my research, expertise, and personal experiences and observations, it is my expert opinion that Da Afghanistan Bank (DAB) is now fully directed and controlled by the Taliban and is an agency or instrumentality of the Taliban. It is also my expert opinion that DAB is a means through which material functions of the Taliban are accomplished, and that DAB is providing material services to, on behalf of, and in support of the Taliban.

¹⁵⁸ *International Narcotics Control Strategy Report: Money Laundering* at 32, *supra* note 29.

¹⁵⁹ *Id.*

¹⁶⁰ Zerden, *supra* note 33.

I declare that the foregoing is true under penalty of perjury of the laws of the United States.

Executed this 20th day of March, 2022 in Washington, D.C.

By: _____

Alex B. Zerden